THE HISTORY OF THE INQUISITION.

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Translated into *English*

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VOL. II.

To which is prefixed,

A large INTRODUCTION concerning the Rise and Progress of PERSECUTION, and the real and pretended Causes of it.

Their tender Mercies are Cruelty.
Their Throat is an open Sepulchre; with their Tongues they have used Deceit; the Poison of Asps is under their Lips: Whose Mouth is full of Cursing and Bitterness.

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THE

HISTORY

OF THE

INQUISITION.

VOL. II.

BOOK III.

Crimes belonging to the Tribunal of the INQUISITION.

CHAP. I.

Of HERETICKS *and their Punishments. And first of such as are* ECCLESIASTICAL.

HERESY is the Crime properly subject to the Trial of the Inquisitors. For they are Inquisitors of heretical Pravity; and their whole Office consists in the Extirpation of Heresy. But there are various Offences relating to Heresy, according to the Statutes of the Church of *Rome*, and one Offence is more grievous than another. For some are manifest Hereticks, others concealed. Some affirmative, others negative. Some impenitent, others penitent. Some Arch-hereticks, others Believers of Hereticks; some

Receivers, others Defenders, others Favourers of Hereticks. Some are Hinderers of the Office of the Inquisition, others suspected of Heresy, others defamed as Hereticks, and others relapsed. Again, there are some who by committing certain other Crimes incur the Suspicion of Heresy, or, who committing certain Crimes, punishable by other Tribunals, yet are answerable to the Tribunal of the Inquisition, because of some heretical Word or Action mixed with those Crimes: So that it must be particularly declared, what the respective Crimes are, and what the Punishments annexed to them. And finally the *Jews*, in some certain Cases, and the Revolters to Judaism, as also Witches and Sorcerers, as far as they are said to deny the Faith, are to be brought before the Tribunal of the Inquisitors. Of these severally in their Order.

And first of HERETICKS.

Eymerick, *p.2. qu.32.* Three Things are required to make any one truly and properly an Heretick. First, That he hath professed the Catholick Faith, *i. e.* hath been baptised. Secondly, That he err in his Understanding in Matters relating to the Faith. What these Things are the Papists inquire; but they are reduced at last to this, that all Points determined by a General Council, or the Pope, as necessary to be believed, or injoined as an Apostolick Tradition, are Matters of Faith. And this is said to make a Man an Heretick initially, and as to his Disposition. The Third is Obstinacy of Will. This is discovered two ways. The first is, when any one is called before a Judge of the Faith, and by him informed that the Opinion he holds is contrary to an Article of Faith, or contrary to the Determination of the Church made concerning the Faith, and yet nevertheless persists in his Error. The other is, when any Person, after the Discovery of his Error, will not renounce it at the Command of a Judge of the Faith, by abjuring it, and giving suitable Satisfaction.

This Crime is so widely extended by the Doctors of the Church of *Rome*, that they esteem as Heresy every Thing that is contrary to any received Opinion in the Church, although it be merely Philosophical, and hath no Foundation in the sacred Scripture. Such is that Assertion of *Bernard Comensis*, in his *Candle of the Inquisitors* in the Word *Heresy*, § 14. *He is an Heretick, who says, defends, or obstinately maintains, that the rational or intellectual Soul is not the Form of the human Body of it self, and essentially; as appears in the* Clementines, *Unica de summa Trinit.* §. *Porro.*

The Punishments ordained against Hereticks are many, and most grievous, because the Church of *Rome* looks upon Heresy to be a much more heinous Crime than any other whatsoever. These Punishments are divided by some into Ecclesiastical and Civil. Others say that some Punishments are inflicted on Hereticks, *a jure*, and *ipso facto*; and that others are inflicted by Men. *De Haret. l.5. c.3. § 1.* *Conrad Brunus* comprehends, and particularly specifies all of them, under this threefold Division. Of human Punishments ordained against Hereticks, some are Ecclesiastical or Canonical, which the sacred Canons have appointed, such as Excommunication, Deprivation of Ecclesiastical Burial, Dignities, Benefices and

and Ecclesiastical Offices. Some are Civil, which the Civil Laws have enacted, such as the depriving Men of the Privileges and Benefits of Law, pecuniary Mulcts, Banishment, Death, and the Bann. Some are mixed, ordained both by the sacred Canons, and the imperial Laws; such as Confiscation of Goods, absolving Subjects from their Allegiance, Infamy, and the Ecclesiastical Interdict. I choose rather to distinguish Punishments only into Ecclesiastical and Civil. By Ecclesiastical, I mean those which are inflicted on any one considered as a Member of the Church, and which are supposed to derive on him some spiritual Evil. By Civil, I understand such Punishments as refer to the Body or Estate of any one, and are inflicted on him as a Member of Civil Society, whether they are appointed by the Civil or Canon Law, or by both.

Simancas gives a merry Reason why they punish Hereticks so severely, instead of convincing them by Scripture of their Error and false Doctrine. *We must not contend with Hereticks by Scripture, because by that our Victory will be uncertain and doubtful.* So that 'tis no wonder they should defend Doctrines, which have no Foundation in Scripture, by Force, and dreadful Punishments, and extort that Confession by the Fear of Punishment, which they can never persuade the Mind of the Truth of, as being destitute of the Weight of Reason, and the clear Testimony of Scripture. But 'tis time to return to our Subject. *Cathol. Instit. tit.* 59. §. 11.

The first Punishment ordained against Hereticks by the Canon Law, is Excommunication. This was in use amongst the Christians in former Times. For ever since that Councils were held for the Extirpation of Heresy, the Custom of excommunicating Hereticks was introduced. By this Excommunication Hereticks were driven from the Sacraments, deprived of the common Suffrages of the Church, and expelled the Company of the Pious and Faithful. Thus the Synod of *Vernon* determined in the Year 755. Chap. 9. *That ye may understand the Nature of this Excommunication, he must not enter into the Church, nor eat and drink with any Christian; let none receive his Gifts, nor offer him a Kiss, nor join with him in Prayer, nor salute him.* Cap. *Cum. Christus. Sicut ait, ad obolendam. Excommunicamus.* de hæret. *Du Cange. In voce Excom.*

The Ceremony of Excommunication is thus: When the Bishop pronounces the Anathema, twelve Priests must stand round him, and hold lighted Candles in their Hands, which they must throw down on the Ground, and tread under their Feet at the Conclusion of the Anathema, or Excommunication. Then a Letter is sent about to the Parishes, containing the Names of the excommunicated Persons, and the Reason of their Sentence. Brunus, *l.* 5. *c.* 3. §. 6.

Excommunication is either the greater or the less. Of both the Synod of *Nimes* hath thus decreed, *An.* 1284. The greater Excommunication is, *when the Prelate says,* I excommunicate thee. *This Excommunication separates a Person from the Communion of the faithful, and the Participation and Perception of the Sacraments.* The lesser Excommunication is, *when any one communicates with a Person under the greater Excommunication; by thus partaking with him he is removed from the Perception of the Sacraments, so that he ought not to receive the Eucharist or other Sacraments, till he is absolved.* An Interdict is, *when the Prelate says,* I interdict thee; *or,* I put thee under the Ecclesiastical Interdict; *or,* I interdict or prohibit thee from entring the Church. *Such an interdicted Person, and he*

who is under the greater Excommunication must not enter the Church, nor stand near it, when divine Service is performing, as long as they are under the Sentence.

An Interdict is a general Excommunication, pronounced against a Province, a *Town*, or *City*, Cap. 17. *de verbor. Signif. Brunus* describes it as applied to Ecclesiastical Affairs.

Brunus, *l.* 5. *c.* 16. §. 10.

" An Ecclesiastical Interdict is one of the principal Ecclesiastical Censures, " as it *forbids* a Person all divine Services, which is it self the greatest Pu- " nishment, as it deprives a Man of the Benefit of divine Services and Sacra- " ments, and affects the Soul, even as a Civil Interdict doth the Body. It is " pronounced sometimes against a Person, *viz.* a Community or *Chapter*. " Sometimes against a Place, *viz.* a Church or City. And there is this Dif- " ference: When a Community is interdicted, the Clergy may perform di- " vine Service with a loud Voice, the Gates being shut, and the Bells rung, " provided the excommunicate and interdicted Persons be excluded, which " they can't do in an interdicted Place. Farther, when a Community is put " under an Interdict, we are not to understand it of the Community as a Body, " but of some particular interdicted Persons; because the Matter of the Inter- " dict is proportioned not to the Body, but the several Members. And yet an " Interdict may be pronounced against the whole Community, as a Punishment " of the Crime of the Governors of the University, or Body, in which " case both the Guilty and Innocent are subject to the Ecclesiastical Interdict, " especially those who were present, and knew the Faults of the Governors, " without opposing them. In this Case the Truth is, that all the Citizens, " even the Ignorant and Innocent, are included in the Interdict.

2. Du Cange *in voce* Interdict.

The Form of the Interdict we have in the Council of *Limoges*, *An.* 1301. Session the Second. *Unless they come to Terms of Peace, let all the Country of the* Limosin *be put under a publick Excommunication, so that no Person, except a Clergyman, or poor Beggar, or Stranger, or Infant from two Years old and under, be permitted Burial, in the whole* Limosin, *or permitted to be carried to Burial in any other Bishoprick. Let divine Service be privately performed in all the Churches, and Baptism given to those who desire it. About the third Hour, let the Bells ring in the Churches, and all prostrate pour out their Prayers, upon account of the Tribulation, and for Peace. Let Penance and the* Viaticum *be granted in the Article of Death. Let the Altars of all the Churches be stripped, as in* Easter *Eve, and the Crosses and Ornaments be taken away, as a Token of Mourning and Sadness to all. Let the Altars be adorned at those Masses only, which any of the Priests shall say, the Church Doors being shut; and when the Masses are done, let them be stript again. Let no one marry during the Time of the Excommunication. Let no one give to another a Kiss. Let no one of the Clergy or Laity, no Inhabitant, or Traveller, eat Flesh or other Meat, than such as is lawful to eat in Lent, in the whole Country of the* Limosin. *Let no Layman or Clergyman be trimmed or shaved, till the censured Princes, the Heads of the People, absolutely obey the holy Council.* Some Synods held at *Landaff*, recited in the *English* Councils, after the Ecclesiastical Laws of King *Alfred*, declare, that in the Time of the Interdicts the Altars were uncovered, the Crosses and Relicts of the Saints laid upon the Ground, and the Bells turned upward.

There

There is another Form of the Interdict extant in a Manuscript of the Church of *Beauvis*, amongst the Laws of *Charles* the Great. *In the Name of Christ, I* Hildegarius, *Bishop of* Beauvis, *by the Authority of the Father, the Son, and the Holy Ghost, and by the Authority of St.* Peter, *Prince of the Apostles, and by our own Authority, do excommunicate and interdict this Church, and all the Chapels belonging to it, that no one may have Power from Almighty God, or from St.* Peter, *the Prince of the Apostles, from this Day to sing or hear Mass, or perform any divine Office, or receive the Tythe of Almighty God, without our special Leave. And whoever shall presume, contrary to these Interdicts, either to sing or hear Mass, or to perform divine Service in any Place, or to receive the Tythe of Almighty God, let him be excommunicated and accursed by the Authority of the omnipotent God the Father, the Son, and the Holy Ghost, and of St.* Peter, *and all the Saints, and separated from the Society of Christians, and from the Doors of our holy Mother Church, where there is Remission of Sins, and let him be* Anathema Maranatha, *to the End of the World, with the Devils in Hell. So let it be, once, twice, thrice,* Amen. *Boniface* VIII. ordained, that notwithstanding the Ecclesiastical Interdict, divine Service might be performed in the four Festivals, to which *Urban* VI. added the Festival of *Corpus Christi*, as may be found in the great *Belgick* Chronicle, *An.* 1389.

[Thus *Du Cange* describes the Interdict. But the *Venetian* Divines, in their Treatise concerning the Interdict of Pope *Paul* V. *An.* 1606. *Propos.* 19. affirm that the Interdict is a new Censure in the Church; and they thus prove it: Because there is no mention of an Interdict, either as to the Word or Meaning, in the holy Scripture, or any one of the antient Fathers, or in the Collection of Canons by *Curcard* or *Gratian*, who wrote about the Year 1150. And therefore it did not begin till after his Time, because *Alexander* III. first mentions it in the Decretals, in a certain Letter of his to the *English* Prelates, *An.* 1170. They add,

In the Beginning, when the Interdict took place, all divine Services were prohibited, except the Baptism of Children, and the Penance of the dying. *Alexander* III. Capit. *Non est nobis.* respons. An. 1170. About the Year 1200. *Innocent* III. allowed of Preaching and the Sacrament of Confirmation. Capit. *responso.* de Sent. Excom. About the Year 1230. *Gregory* IX. granted, that Mass should be celebrated once every Week, but without the ringing of the Bell, with a low Voice, and the Gates shut, in order to consecrate the most holy Sacrament for dying Penitents. Cap. *Permittimus.* de Sent. Excom. About the Year 1245. *Innocent* IV. permitted the Sacrament of Penance to be administred to the Cross-bearers, and Strangers, and that two or three of the Clergy might celebrate divine Service with a low Voice. Cap. *Quod.* in Text. de Pœn. About the Year 1300. *Boniface* VIII. decreed that Penance should not only be administred to the Sick, but to such as were well, and every Day, and that divine Service should be performed with a low Voice, the Gates shut, and without ringing the Bells, except on the Feasts of the *Nativity*, *Easter*, *Whitsunday*, and the *Assumption of the Blessed Virgin*, when it should be celebrated with open Gates, and the ringing of the Bells. c. *Alma Mater.* de Sent. Excom. in 6.

To

To this they subjoin the Effects of an Interdict, to shew that if this Censure be not used with some Difference, it will destroy the Church. It is worth while just to recite these Effects in the Words of the aforementioned Place, *Alma Mater.* and from the Extravagant *Provide. Because,* says he, *by such sort of Statutes the Indevotion of the People is forgotten, Heresies spring up, an infinite Number of Dangers arise to Souls, and the Church, without her Fault, loses the Obedience due to her.* The Words of the Extravagant are these: *Prayers for the Dead, especially by the frequent Oblation of the salutary Host, are either entirely prevented, or greatly lessened; young Persons and Children more seldom partake of the Sacraments, and are thereby less inflamed and confirmed in the Faith, the Devotion of the Faithful grows cool, Heresies spring up, and the Dangers of Souls are encreased.* The Gloss upon the same Chapter *Alma Mater* says, That after the Removal of the Interdict from any Place, Persons of thirty or forty Years old, who had never seen the Mass celebrated, laughed at the Priests as they were celebrating it. *Sotus* a famous Doctor says, *That though an Interdict on one hand tends to terrify the Excommunicate, yet on the other it endangers divine Service, especially if it lasts for any considerable while; for that not only the Laity lose their Affection and Regard for divine Services from not being accustomed to frequent them; but even the Clergy themselves grow more remiss and indolent in performing them: Upon which Account Religion it self suffers great Loss, and the Manners of the People grow wild and savage.* Thus far the *Venetian* Divines.]

Distinct. 22. Qu. 3 Artic. 1.

Heretofore they used, three times a Year, solemnly to anathematise Hereticks of every Sect, *viz.* in the Day of *Cæna Domini*, the Ascension, when Christ prayed for all the Faithful, and in the Feast of the Dedication of the Churches of St. *Peter* and *Paul*; to denote that the excommunicate Person was deprived of the Sacrament of the Supper, that he could not partake of the Prayers of the Church, and that he was expelled the Church, so that he could not pray with the rest of the Faithful. To this Custom succeeded the Process of the Bull, called *In cæna Domini*, which was read publickly, and with a loud Voice, every Year, on *Holy Thursday*, in the Morning, by the last Cardinal Deacon, in the Presence of the Pope, and the rest of the Cardinals and Bishops, by which all Hereticks are anathematized. When the reading of it is finished, the Pope takes a little lighted Torch, and throws it into the Street, as a Token of the Thunder sent against the Excommunicate. The Use of this Bull doth not seem very antient; for neither *Thomas*, nor *Eymericus*, nor other antient Writers mention it. But it seems to have begun in the Time of *Martin* V. about the Year 1420. when the *Bohemian* Doctrine was damned by the Council of *Constance*. *Paul* II. and *Sixtus* IV. make mention of it in some Rescripts, beginning, *Etsi dominici Gregis*. Afterwards *Leo* X. encreased it against *Luther*, as did *Paul* III. and the other *Roman* Pontiffs, till at length, *An.* 1616. it was brought into this Form by *Paul* V.

Pegna *p.* 2. *Com.* 22.

Hierolex in voce *Processus.*

The pastoral Diligence and Care of the Roman *Pontiff is continually employed, according to the Duty of his Office, in procuring all Peace and Tranquility for the Christian Republick; and especially shines forth in maintaining and preserving the Unity and Integrity of the Catholick Faith, without which 'tis impossible to please God;* viz. *that*

that the Faithful of Christ may not be as little Children, tossed, and carried about with every Wind of Doctrine, by the Wickedness of Men who go about to deceive; but may all meet in the Unity of the Faith, and Acknowledgment of the Son of God, and grow into a perfect Man, and may not hurt one another in the Fellowship and Communion of this Life, nor give Occasion of Offence to each other, but rather being joined in the Bond of Charity, as Members of one Body under Christ the Head, and his Vicar upon Earth the Roman *Pontiff, the Successor of the most blessed* Peter, *from whom the Unity of the whole Church flows, may encrease unto Edification, and may thus, with the Assistance of divine Grace, so enjoy the Quiet of the present Life, as that they may obtain the Blessedness of the future. For which Causes the* Roman *Pontiffs, our Predecessors, have, on this Day, celebrated for the anniversary Commemoration of the Lord's Supper, been used solemnly to exercise the spiritual Sword of Ecclesiastical Discipline, and the salutary Arms of Justice by the Ministry of the Chief Apostolate, to the Glory of God, and the Salvation of Souls.*

We therefore to whom nothing is more desirable, than under God, to defend inviolable the Integrity of the Faith, the publick Peace and Justice, following this antient and solemn Custom,

1. *Do excommunicate and anathematize, on the Part of Almighty God, the Father, Son, and holy Spirit, and also by Authority of the blessed Apostles* Peter *and* Paul, *and by our own, all* Hussites, Wickleffites, Lutherans, Zuinglians, Calvinists, Hugonots, Anabaptists, Trinitarians, *and Apostates from the Christian Faith, and all and singular other Hereticks, by whatever Name distinguished, or to whatever Sect they belong, as also their Believers, Receivers, Favourers, and in general all their Defenders, and such who without our Authority, and the Authority of the Apostolick See, do knowingly read, or retain, or print their Books containing Heresy, or treating of Religion, or who in any manner defend them, or upon any account, publickly or privately, upon any Pretence or Colour; as also all Schismaticks, and those who obstinately withdraw themselves or depart from our Obedience, or that of the* Roman *Pontiff for the Time being.*

2. *Likewise we excommunicate and anathematise all and singular Persons, of every State, Degree, and Condition, and interdict all such Universities, Colleges, and Chapters, of whatsoever Name, who appeal from our Appointments and Commands, and those of the* Roman *Pontiffs for the Time being, to an universal future Council; as also all those by whose Assistance, Counsel or Favour such Appeal shall have been made.*

3. *Likewise we excommunicate and anathematise all Pirates, Corsaires and Robbers, who infest our Sea, especially from* Monte Argentaro *to* Terracina, *and all their Favourers, Receivers and Defenders.*

4. *Likewise we excommunicate and anathematise all and singular Persons whatsoever, who, when the Ships of any Christians shall be overset by a Storm, or by any Means suffer Shipwrack, shall take away from them their Effects of any Kind, whether they find them in the said Ships, or thrown into the Sea, or cast on the Shore, as well in our* Tuscan *and* Adriatick *Seas, as in other Regions and Shores of any other Sea whatsoever; so that they shall not be excused upon Account of any Privilege, Custom, or Possession of Time immemorial, or any other Pretence whatsoever.*

5. *Like-*

5. *Likewise we excommunicate and anathematise all, who either lay or encrease Taxes or Gabels in their Lands, except in such Cases as are permitted them by Law, or by the special Leave of the Apostolick See, or who cause such as are prohibited to be laid or encreased.*

6. *Likewise we excommunicate and anathematise all Forgers of Apostolick Letters, even in Form of Brief, and Supplications, concerning Grace or Justice, signed by the* Roman *Pontiff, or the Vice-chancellors of the Holy* Roman *Church, or their Vice-gerents, or by the Command of the said* Roman *Pontiff: As also such who counterfeit Apostolick Letters, even in Form of Brief; as also such who falsely sign any Supplications under the Name of the* Roman *Pontiff, or his Vice-chancellor, or their Vice-gerents.*

7. *Likewise we excommunicate and anathematise all those who carry or send over to the* Saracens, Turks, *and other Enemies and Adversaries of the Christian Name, and such as are expresly, or by Name declared Hereticks by our Sentence, or that of this Holy See, Horses, Arms, Iron, Bars of Iron, Tin, Steel, and all other Kinds of Metals, and warlike Instruments, Timbers, Hemp, Ropes, made either of Hemp or any other Matter, and the Materials themselves, and all other such sort of Things, by which they may injure Christians and Catholicks; and also all those who either by themselves or others, give Information to the Turks and Enemies of the Christian Religion, or to Hereticks, of the Affairs concerning the State of the Christian Commonwealth, to the Prejudice and Destruction of Christians, and the Detriment of the Catholick Religion, and all such who in this Affair any ways afford them Help, Counsel, and Favour, all Privileges whatsoever hitherto granted by us and the aforesaid See to any Persons whatsoever, Princes, and Republicks, not making express Mention of such Prohibition, to the contrary notwithstanding.*

8. *Likewise we excommunicate and anathematise, all who hinder or attack those who bring Provisions, or other Things necessary for the Use of the Court of* Rome; *as also those who prohibit, hinder, and prevent such Things being brought or carried to the said Court of* Rome, *or who defend those who do these Things, either by themselves, or others, of whatsoever Order, Preheminence, Condition and State they may be, even though they should be rendred Illustrious by the Pontifical or Regal, or any other Ecclesiastical or worldly Dignity whatsoever.*

9. *Likewise we excommunicate and anathematise all those who, either themselves, or by others, kill, mutilate, spoil, apprehend or detain any Persons coming to the Apostolick See, or going from it; as also all those who not having the ordinary Jurisdiction, or that delegated by us and our Judges, shall rashly claim it to themselves, and shall presume to commit such Things against those who abide in the same Court.*

10. *Likewise we excommunicate and anathematise all such who kill, mutilate, wound, detain, apprehend or rob such as are coming to* Rome, *or Pilgrims going to the City upon account of Devotion or Pilgrimage, and staying in it, or going from it, or who in these Things give them Assistance, Counsel or Favour.*

11. *Likewise we excommunicate and anathematise all such who kill, mutilate, wound, strike, apprehend, imprison, detain, or in an hostile Manner pursue the Cardinals of the Holy* Roman *Church, the Patriarchs, Archbishops, Bishops, Legates or Nuncios of the Apostolick See, or who eject them from their Dioceses, Territories,*

tories, Lands or Dominions; as also those who command or confirm these Things, and grant their Assistance, Counsel or Favour in them.

12. *Likewise we excommunicate and anathematise all those, who kill, or any ways strike, or deprive of their Effects, either by themselves or others, any Ecclesiastical Persons whatsoever, or Seculars coming to the Court of* Rome *upon their Causes and Affairs, and prosecuting them in the said Court, or such who procure and manage their Affairs, Advocates, Procurators, and Agents, or Auditors and Judges in the aforesaid Causes and Affairs, deputed upon Occasion of the said Causes and Affairs; as also all such who by themselves or others, directly or indirectly, shall dare to commit, perform or procure such Crimes, or shall grant Assistance, Counsel or Favour in them, of whatsoever Preheminence and Dignity they may be.*

13. *Likewise we excommunicate and anathematise all as well Ecclesiastical as Secular, of whatsoever Dignity, who, under the Pretence of a frivolous Appeal from the Burthen or future Execution of the Apostolick Letters, even in Form of Brief, concerning as well Grace as Justice, and of Citations, Inhibitions, Sequesters, Monitories, executorial Processes and other Decrees, proceeding, or which for a Time or otherwise may have proceeded from us, and the aforesaid See, or Legates, Nuncio's, Presidents, Auditors of our Palace, and of the Apostolick Chamber, Commissaries, and other Judges, and Apostolick Delegates, shall have Recourse to the Secular Courts, and Lay Power, and shall suffer such Appeals from it, though at the Instance of the Procurator or Advocates of the Treasury, and shall cause such Letters, Citations, Inhibitions, Sequesters, Monitories, and other the aforesaid to be taken and retained, or who hinder and prohibit, either simply, or without their Pleasure, Consent or Examination, these Things to be put in Execution, or the Attornies or Notaries employed in the Execution of such Letters and Processes from making such Instruments or Acts, or when made from delivering them to the Party concerned, or who apprehend, strike, wound, imprison, detain, banish from Cities, Places and Kingdoms, deprive of their Goods, terrify, extort Money from, or threaten by themselves, or any other or others, publickly or privately the said Parties or their Agents, Kindred, Relations, Acquaintance, Notaries, Executors, or Under-Executors of the said Letters, Citations, Monitories, and other the aforesaid, or who shall presume to forbid, ordain and command directly or indirectly any other Person whatsoever, either in general or particular, that they do not apply or have Recourse to the Court of* Rome *in pursuing the said Affairs, or obtaining Graces or Letters, or soliciting such Graces and Letters from the said See, or using them when obtained, or who shall themselves, or by their Notaries, or Attornies, or any other Ways dare to keep them.*

14. *Likewise we excommunicate and anathematise all and singular Persons whatsoever, who themselves or by others, by their own proper Authority, and in Fact, under the Pretence of any Apostolick Executions, or other Graces and Letters, remove Grants of Tythes, or other spiritual Causes, or annexed to spiritual, from our Auditors, and Commissaries, and other Ecclesiastical Judges, or who hinder the Course and Hearing of them, or Persons, Chapters, Convents, Colleges, who are willing to prosecute the said Causes, and who interpose themselves as Judges in the Cognisance of them, or who by Statute or otherwise compel the acting Parties who have, or do cause them to be tried, to revoke, or cause to be revoked Citations or Inhibitions, or other*

Letters decreed therein, and to cause, or consent that those Persons, against whom such Inhibitions have proceeded, shall be absolved from the Censures or Penalties contained in them; or who in any manner obstruct them in the Execution of Apostolick Letters, or Executorials, or Processes, or aforesaid Decrees, or who give their Favour, Counsel, or Assent towards it, even though they should pretend it was to prevent Violence, or under any other Pretences whatsoever; yea, though they should pretend that 'tis only till they have intreated, or caused Intreaty to be made for our Information, unless they legally prosecute such Supplications before us and the Apostolick See; even though they who commit such Things should be Presidents of Chanceries, Councils, or Parliaments; Chancellors, Vice-Chancellors, Judges, the Counsellors ordinary or extraordinary, of any secular Princes whatsoever, even though they are illustrious for the Imperial, Regal, Ducal, or any other Dignity whatsoever; or whether they be Arch-Bishops, Bishops, Abbots, Commendatories or Vicars.

15. *Or who by Virtue of any pretended Office, or at the Instance of any Party or other Persons whatsoever, bring, or cause, or procure directly or indirectly, under any Colour whatsoever, to be brought, Ecclesiastical Persons, Chapters, Convents, Colleges of any Churches, before them to their Tribunal, Audience, Chancery, Judges, or Parliament, contrary to the Disposition of the Canon Law; or who shall make, ordain, or publish Statutes, Ordinations, Constitutions, Pragmaticks, or any other Decrees whatsoever, in general or particular, upon any Account, or under any Colour whatsoever, and even under Pretence of any Custom or Privilege, or for any other Reason whatsoever, or who shall make use of them when made or ordained, by which the Ecclesiastical Liberty is taken away, or in any Degree hurt, or sunk, or otherwise by any Means restrained, or whereby our Rights, or those of the said See, or any other Churches, are any Ways directly or indirectly, tacitly or expresly prejudiced.*

16. *All such moreover, who, on this Account, in any manner directly or indirectly, hinder the Arch-Bishops, Bishops, and other superior and inferior Prelates, and all other ordinary Ecclesiastical Judges whatsoever, by imprisoning or molesting their Agents, Procurators, Familiars, or their Relations or Kindred, or others, so as to prevent their exercising their Ecclesiastical Jurisdictions against any Persons whatsoever, according to what the Canons and sacred Ecclesiastical Constitutions, and the Decrees of General Councils, and especially the Council of* Trent, *ordain; and also those who after the Sentences and Decrees of their Ordinaries, or any Persons delegated by them, or who any other ways evading the Judgment of the Ecclesiastical Court apply themselves to Chanceries, or any other secular Courts, and who procure from them Prohibitions or penal Commands to be decreed and executed against the Ordinaries and their aforesaid Delegates; and those also who decree and execute these Things, or give their Assistance, Counsel, Patronage or Favour therein.*

17. *Those also who seize on the Jurisdictions, Profits, Returns, and Incomes belonging to us and the Apostolick See, and to any Ecclesiastical Persons whatsoever, by reason of their Churches, Monasteries, and other Ecclesiastical Benefices, or who upon any Occasion or Cause sequester them, without the express Licence of the* Roman *Pontiff, or others who have a legal Power to do it.*

18. *Such also who lay any Imposts, Tythes, Taxes, Duties, and other Burthens upon the Clergy, Prelates, and other Ecclesiastical Persons, and upon their Effects, or those*

those of their Churches, Monasteries, and other Ecclesiastical Benefices, or upon their Fruits, Returns, or such like Incomes, without the like special and express Leave of the Roman *Pontiff; or who exact them by any other invented Methods whatsoever, or who receive them when laid, even from those who voluntarily give and grant them. Moreover all such who by themselves or others, directly or indirectly presume to do the aforesaid Things, or procure them to be done, or give their Assistance, Counsel or Favour in them, of whatsoever Preheminence, Dignities, Order, Condition or State they may be, even though they shine with the Imperial or Regal Dignity, or whether they are Princes, Dukes, Counts, Barons, or other Potentates whatsoever, or whether they be any ways Presidents, Counsellors, and Senators, in Kingdoms, Provinces, Cities and Countries, or adorned with any, even with the Pontifical Dignity, renewing hereby the Decrees made concerning these Matters by the sacred Canons, as well in the* Lateran *Council lately held, as in other general Councils, with also the Censures and Penalties contained therein.*

19. *Likewise we excommunicate and anathematise all Magistrates and Judges, Notaries, Scribes, Executors, Sub-executors, who in any manner concern themselves in capital or criminal Causes, against Ecclesiastical Persons, by processing, banning, apprehending them, or by pronouncing or executing Sentences against them, without the special specifick and express License of this holy Apostolick See, or who extend such License to Persons and Cases not expressed, or who otherwise rashly abuse it, even although such who do commit these Things should be Counsellors, Senators, Presidents, Chancellors, Vice-Chancellors, or called by any other Name whatsoever.*

20. *Likewise we excommunicate and anathematise all those who by themselves, or others, directly or indirectly, under any Title or Colour, shall presume to invade, destroy, seize and detain, in whole or in part, this holy City, the Kingdom of* Sicily, *the Isles of* Sardinia *and* Corsica, *the Countries on this Side* Faro, *the Patrimony of St.* Peter *in* Tuscany, *the Dutchy of* Spoleto, *the County of* Venaissin, *and the Maritime Provinces of the Marquisate of* Ancona, Massa, Treve, Romagna, Campania, *and their Countries and Places, and the Lands of the special Commission of the* Arnulphs, *and our Cities of* Bologna, Faenza, Rimini, Benevento, Perouse, Avignon, Civita Castellana, Todi, Ferrara, Comachio, *and other Cities, Countries and Places, or Rights belonging to the* Roman *Church, and subject mediately or immediately to the said* Roman *Church; as also presume to usurp, disturb, retain, or interrupt by any Methods the supream Jurisdiction in them actually belonging to us, and the said* Roman *Church; as also their Adherents, Favourers, and Defenders, or who any ways grant them Assistance, Counsel or Favour.*

It being our Will that these our present Processes, and all and every Thing contained in these Letters, shall last, and have their entire Effects, as long as there shall be any such Processes made by us, or the Roman *Pontiff for the Time being.*

Furthermore, no one shall be absolved from the aforesaid Sentences by any other Person but the Roman *Pontiff, except in the Article of Death, nor even then, unless he shall give Security to stand to the Commands of the Church, and make Satisfaction; notwithstanding any Pretences of Faculties or Indulgencies, granted and renewed, or to be granted or renewed by us, or the said See, and the Decrees of any Council, by Word or Letters, or any other Writing, general or special, to any Ecclesiastical Persons whatsoever,*

ſoever, Seculars, and the Regulars of all Orders, even of the Mendicant and Military ones, even to ſuch as enjoy the Epiſcopal, or any other greater Dignity, and to the Orders themſelves, and their Monaſteries, Convents, and Houſes, and Chapters, Colleges, Confraternities, Congregations, Hoſpitals, and holy Places; as alſo to any of the Laity, tho' Illuſtrious for the Imperial, Regal, or any other worldly Excellency.

But if any Perſons, contrary to the Tenor of theſe Preſents, ſhall actually preſume to grant the Benefit of Abſolution to ſuch who are entangled in this Excommunication and Anathema, we put them under Excommunication, intending to proceed more ſeverely againſt them, ſpiritually and temporally, as we ſhall know to be moſt convenient.

Declaring and proteſting, that no Manner of Abſolution, even to be made ſolemnly by us, ſhall comprehend, or be of any Benefit to the aforeſaid excommunicate Perſons, contained under theſe Preſents, unleſs they ſhall firſt abſtain from the Premiſſes, with the Purpoſe of not committing ſuch Things for the future; or to thoſe who have made any Statutes, as aforeſaid, againſt the Eccleſiaſtical Liberty, unleſs firſt they ſhall publickly revoke ſuch Statutes, Ordinations, Conſtitutions, Pragmaticks and Decrees, and ſhall eraſe and blot them out from their Archives, Records, or Books in which they are found to be regiſtred, and ſhall certify us concerning ſuch Revocation; moreover, that by ſuch Abſolution, or by any other contrary Acts, tacit or expreſſed, or by our Patience and Forbearance, or that of our Succeſſors, continued for any Time whatſoever, no Prejudice can or ought to affect the Apoſtolick See, and the Holy Roman *Church, in all and ſingular the Premiſſes, and in any of its Rights, where and whenſoever purſued or to be purſued.*

All Privileges, Indulgences, Grants and Letters Apoſtolick, general or ſpecial, to the aforeſaid, or to any one of them, or to any others of any Order, State, or Condition, Dignity or Preheminence, altho' as before they may enjoy the Pontifical, Imperial, Regal, or any Eccleſiaſtical and worldly Dignity; or to their Kingdoms, Provinces, Cities, or Places, granted by the aforeſaid See, upon any Account, even by way of Contract, or Reward, and under any other Form and Tenor, and with any Clauſes, even the Derogatories of Derogatories, even tho' they contain that they may not be excommunicated, anathematiſed, or interdicted, by Letters Apoſtolick not making full and expreſs Mention, Word for Word, of ſuch Privileges, Indulgencies, and Grants, and of their Orders, Places, proper Names, Surnames and Dignities; as alſo all Cuſtoms, even Immemorial, and Preſcriptions the longeſt that can be, and all other Obſervances whatſoever, written or not written, by Virtue of which they may be able to help or defend themſelves, ſo as to exclude themſelves from being concerned in theſe our Proceſſes and Sentences, to the contrary notwithſtanding.

All which Things, as to this Affair, and the Tenors of all of them, as tho' they were inſerted here to a Word, without the Omiſſion of any Thing, taking them as expreſſed in theſe Preſents, we entirely take away, and wholly revoke, and all other Things whatſoever to the contrary.

And that theſe our preſent Proceſſes may more eaſily come to the publick Knowledge of all, we will cauſe the Papers or Parchments containing theſe Proceſſes, to be fixed up in the City, on the Gates of the Church of St. John Lateran, *and the Cathedral*

Church

Church of the Prince of the Apoſtles, that they whom ſuch Proceſſes concern, may be able to pretend no Excuſe, or alledge Ignorance, that they had not ſeen them or known them; ſince it is not probable, that that ſhould remain unknown, which is thus openly publiſhed to all. Moreover, that theſe Proceſſes, and preſent Letters, and all and ſingular the Matters contained in them may become yet more known, by being publiſhed in moſt Cities and Places, we by theſe Writings, order, and in Virtue of their holy Obedience, ſtrictly enjoin and command, all and ſingular, Patriarchs, Primates, Arch-Biſhops, Biſhops and Ordinaries of Places, and Prelates conſtituted every where, that either by themſelves, or any other or others, they ſolemnly publiſh, and propoſe, ſhew, and declare to the Minds of the Faithful of Chriſt, theſe our preſent Letters, after they have received them, or had the Knowledge of them, once every Year, or oftener, if they think fit, in their Churches, when the greateſt Number of People ſhall be met together for divine Worſhip.

Moreover, let the Patriarchs, Arch-Biſhops, Biſhops, and other Ordinaries of Places, and Prelates of Churches, and alſo all Rectors, and others having the Cure of Souls, and Presbyters, Seculars, and the Regulars of every Order, deputed by any Authority to hear Confeſſion of Sins, have by them a Tranſcript of theſe preſent Letters, and ſtudy diligently to read and underſtand them: It being our Will, that altogether the ſame Credit ſhall in Judgment, and out of it, be every where given to the Tranſcripts of theſe Preſents, even when printed, ſubſcribed with the Hand of a publick Notary, and marked with the Seal of the ordinary Judge of the Roman Court, *or any other Perſon conſtituted in Eccleſiaſtical Dignity, as would be given to theſe Preſents, if they were themſelves exhibited and ſhewn. Let therefore no Man dare to infringe, or by any raſh Endeavour to contradict this Page of our Excommunication, Anathematization, Interdict, Innovation, Innodation, Declaration, Proteſtation, Sublation, Revocation, Commiſſion, Command and Will. If any one ſhall preſume to attempt this, let him know that he ſhall incur the Indignation of Almighty God, and his bleſſed Apoſtles,* Peter *and* Paul. *Given at St.* Peter's *in* Rome, *in the Year of the Incarnation of our Lord* MDCXVI. Apr. 22. *and Twelfth Year of our Pontificate.*

M. DATARIUS.

J. Bulgarius.

The Place † of the Seal.
Regiſtered in the Secretary of Briefs.
S. de Urſinis.]

This Excommunication infers other Puniſhments. For if an Heretick excommunicated hath any ſpiritual Juriſdiction, he forfeits it, nor can he validly perform thoſe Acts which require Juriſdiction, becauſe as this is given by the Church, the Church may reſume it. Hence all Things that are done by a Prieſt or Biſhop, without Permiſſion, are null, for the want of Juriſdiction. All Abſolutions, Cenſures, Sentences, Puniſhments, done by him, are void. Thus it is ſaid, that an excommunicated Perſon can't excommunicate, and that they are not to be looked on as excommunicate, who are excommunicated by Hereticks. Yet they ſo far retain the Powers belonging to their

Becani *Theol. Scholaſt. p.* 581.

Cap. *Audivimus* 24. *Qu.* 2.

Ibid. Cap. *aperte.* their Order, that they may validly do an Act which doth not require Jurisdiction, tho' not lawfully, because they sin in doing it; and they give this Reason, because the Power of any Order consists in an indelible Character. Hence they infer, that he who hath once legally received this Power, must always keep it, and that therefore he may validly do an act, which doth not require Jurisdiction, provided the due Matter, Form and Intention be preserved, because such a Power hath its Force from the Institution of Christ, which the Church cannot take away.

Eymer, *part.* 3. *Qu.* 113. Pegna, *Com* 162. Finally, Hereticks are deprived of all Ecclesiastical Benefices and Dignities. But there is this Difference between Hereticks, and their Favourers, Receivers and Defenders. Hereticks are *ipso jure*, deprived of their Ecclesiastical Benefices from the Day of their committing their Crime, by a Rescript of *Pius* V. beginning, *Cum ex Apostolatus*, in which he reserves all Benefices of whatsoever sort, and where-ever they are, vacant for the Crime of Heresy committed by any one, to the Nomination and Appointment of the Apostolick See; whereas the Receivers, Favourers and Defenders of Hereticks are not *ipso jure*, deprived of their Benefices, but must be deprived by Sentence. Cap. *Excom.* 1. §. *Credentes.* de hæret.

Qu. 114. *Com.* 163, 164. This is extended to their Posterity, to the second Generation by the Father's Side, and the first by the Mother's. Cap. *Quicunq*; §. *Heret.* de hæret. l. 6. and Cap. *Statutum* de hæret. lib. 6. So that if the Father be an Heretick, his Son and Daughter, and Grandson by his Son, is judged incapable, but the Grandson by the Daughter is not incapable, because he is *reckoned* of his own Father's Family. If the Mother be an Heretick, the Son or Daughter only in the first Degree is incapable, and no farther. The Sons of those also suspected of Heresy are incapable. But when the Receivers and Abettors of Hereticks and the like are dead, there can be no Process against them, because their Crime is extinguished by Death. As for those Children who accuse their heretical Parents to the Judges of the Faith, the Punishments appointed by Law don't affect them.

Amongst the Ecclesiastical Punishments is also reckoned, that no Offering is to be made for those who die in Heresy, nor are they to receive Christian Burial. Cap. *Sicut ait B. Leo* de hæret. And this *Innocent* IV. especially ordained by a perpetual Constitution, induced thereto by that solemn Sentence, Bzovius, *a.* 1247. §. 4. *n.* 15. *The Bodies of excommunicated Persons ought not to be buried in the sacred Places of the Faithful, because as the Church had no Communion with them when alive, she will have no Communion with them when dead.*

CHAP.

CHAP. II.

Of the Civil Punishments of HERETICKS.

POlitical Punishments appointed by the Canon and Civil Laws against Hereticks, are various.

The first is what is commonly called, the Confiscation of their Goods. Cap. *Vergentis in Senium.* de hæret. *We ordain that the Goods of Hereticks be confiscated in all Countries subject to our temporal Jurisdiction, and in other Places also by the Powers and secular Princes of them; and if they should prove negligent in this Affair, we will and command that they be compelled to it, by an Ecclesiastical Censure, without Benefit of Appeal.*

[" This Confiscation of Effects, *Lewis a Paramo* derives from the Example *L. 1. t. 2.*
" of God, who, not contented with the Sentence of Death pronounced against *c. 7. p. 45.*
" our first Parents, drove Man from the Place of his Delights, stript of all " his Goods, wounded in Naturals, and spoil'd of those Gifts that had been " freely granted him, his original Integrity especially being irreparably lost, " and adjudged him to hard and continual Labours, and out of his Hatred to " so great a Wickedness, commanded the very Earth to bring forth Briars " and Thorns. This Example, he saith, the most holy Tribunal of the Inquisition follows, confiscating by a just Proscription the Goods of Hereticks, " and depriving them of all their Effects and Fortunes. Neither ought this " Instance to be accounted Foreign from the Case. For altho' the Confiscation of Effects doth not regularly take place as to all other Crimes, tho' " very heinous, nevertheless God, the first of the Inquisitors, that in this detestable Crime of Heresy he might give an Example to other delegated Inquisitors, deprived our Parents of all their Effects, of the Possession of their " earthly Paradise, the Use of all the Fruits of it, and their Dominion over " all the Creatures; for they did not only after this not obey our first Parents, but became Enemies to them. He also deprived their Children and " Successors of these Goods, &c. and this irrevocably. Nor can any one ever " more come to such a Place."] Moreover, the Goods of Hereticks are declared *ipso jure*, confiscate, in the Chap. *Cum secundum leges.* de hæret. l. 6. *We decree by the Advice of our Brethren, that the Goods of Hereticks, who offend more grievously, horribly and detestably than the before mentioned, be* ipso jure, *confiscate.*

This Law is of great Use in the Tribunal of the Inquisition, and extreamly hard and severe upon the Criminals, their Relations and Heirs. For hence Simanc.
it is, that because the Goods of Hereticks are *ipso jure* confiscate, they be- *tit. 9.*
come forfeited from the very Day of their Crime, so that all Donations by §. 21, &c.
Hereticks, altho' secretly made, are null and void. Even Portions given to Daughters, to support the Burthens of Matrimony, tho' it be the Duty of a Father to portion them out, or given to such as have taken on them the

holy

holy Vow of a Monastick Life, are to be revoked and confiscate. *Zanchinus* gives this Reason, *Cap.* 27. Because his Goods are confiscate from the very Day of his committing the Crime, and therefore he can have no right of Administration. But as for the Goods of such, who can't purge themselves, or are condemned for Contumacy, they are not forfeited but from the Day they are presumed to be Hereticks, not from the Day that the Witnesses declare them to have been Hereticks.

§. 9, &c. If any one gives a Legacy upon account of Death, and falls into Heresy, and his Goods become confiscate, the Legacy shall be recovered as void, and belongs to the Treasury equally with all the other Goods of the Heretick. If an Husband bequeaths any Thing to his Wife, and his Memory be condemned for Heresy after his Death, such Donation shall be revoked, altho' his Legacies to others shall stand good. If any Thing be owing to an Heretick by a conditional Contract, it belongs to the Treasury under that Condition, who must perform it, if they conveniently can. All the Goods of a Wife condemned for Heresy and Impiety are forfeited, whether they be her Dowry, or any other Things besides, which she brought to her Husband, or such Donations as the *Spaniards* call *Arrhæ* *; or such Profits as belong to Wives by the Royal Laws. But the Husband hath all his Actions good against the Treasury. In like manner the Goods of an heretical Son gotten in War are confiscated, because that is the Son's private Property, in which the Father hath no Right. If he shall happen to have sold any of his Goods, and the Money be in his Possession, or any Thing equivalent, let it be restored to the orthodox Buyer, but if it be consumed, it shall not be restored.

Zanch. *c.* 27.

Hence it is, that in every Sentence, the Time of the Person's falling into Heresy is particularly expressed, and these or the like Words inserted in it,

c. 41. *And by this our Sentence we declare, That all and singular his Goods were brought into our Treasury from the said Time of committing the Crime, and we do solemnly declare all and every of them to be confiscated to the Treasury of the Church of* Rome, *and our Office of the Inquisition.*

A Person however must be declared an Heretick by the Judge, before his

l. 4. *c.* 12. Goods are actually confiscate. For as *Brunus* says, " The Law hath taken

§. 3. " Care, that if any one falls into an Heresy already condemned, he shall neither be accounted or punished as an Heretick, unless the Judge shall have pronounced by his Sentence, that he is under the principal Condemnation. " So that the Hereticks do, *ipso jure*, lose all Property in their Estates, yet " they can't be confiscated till after the declaratory Sentence is pronounced. " But however, this must be understood of such a Crime as hath not been " certified to the Judge, either by Confession, or legal Proof, or the Evidence " of the Thing it self. For in notorious Crimes, which need no Declaration, " there seems no need of a declaratory Sentence, according to *Dominick*; " who thought it sufficient, that if an Heretick did not appear to purge him- " self, by the Time fixed by the Judge, nor produce his Vindication, an

* *Arrhæ* are the Presents given to any Women upon their being betrothed.

" Execution

"Execution might be granted against him, even without a declaratory Sentence, altho' there are some who insist upon the Necessity of a declaratory "Sentence even in notorious Crimes, and think that no Execution can be "granted without it."

This Confiscation of Goods is so rigidly insisted on, that there is no possible way of evading it, no not by the Alienation of a Man's Effects. The Treasury of the Inquisition devours all. Thus we read, that amongst other Conditions of Peace prescribed to *Raymond* Earl of *Tholouse*, these were some.

N. 11. *Likewise we ordain, that whereas we have understood that the Believers of* Bzovius, *Hereticks, who intend to become perfect Hereticks, according to their detestable Life,* a. 1228. *sell before-hand their Possessions and Inheritances, to defraud the Treasury, or give or* §. 6. *convey them, or by other Means alienate them, those Contracts shall be all void, and the aforesaid Goods shall be confiscated, if all Circumstances of the said Contracts and Contractors considered, it shall appear to us that they were fraudulently made.*

N. 12. *Furthermore, whereas we have understood that certain Hereticks remove to other Hereticks, under the Pretence of Merchandize or Travelling, that by such Absence they may defraud the Treasury, and convey away their Goods, we ordain, that the Bishop of the Place shall admonish and require their Relations, or such who have their Goods in Possession, to assign some just and reasonable Cause of their continued Absence, and if they do not assign such Cause within a Year, to be computed from the Time of the Admonition given by such Bishop, that then, if such absent Persons are otherwise suspected, they shall be presumed Hereticks, and all their Goods confiscated. But if they, or their Heirs, or those who possess their Goods, shall assign any just or probable Cause of such their Absence beyond the aforesaid Time, either after or before the Confiscation of their Goods, that then such Goods may be lawfully left in their Possession, or restored to them.*

The same Things as are prescribed in these Conditions to the Earl of *Tholouse*, are observed in *Italy*, by the Pope's Command, that by no Pretence of Alienation there may be any Possibility of escaping the Confiscation of Goods, or Forfeiture of Dominion. *Lucas Waddingus* relates in his Annals, that Friar a. 1260. *Andrew*, Inquisitor in *Tuscany*, proceeded to seize a certain powerful Heretick, §. 5, &c. called *Capellus de Chia*. The Pope commanded, that all the Faithful, both Ecclesiastical and Secular, should grant their Assistance, that they should muster an Army against him, and proceed in an hostile Manner to waste and destroy his Lands. *Capellus*, knowing himself proscribed, made a pretended Sale of the Castle of *Casal*. *Peter James Surdus*, a Citizen of *Rome*, obtained from the Senators of the City an Order, that the Inhabitants of *Viterbo*, who had taken Arms in Obedience to the Church and the Inquisitors, should not attack it, falsely pretending that it belonged to him. The Pope chid him severely, adding these amongst other Words. *We therefore will, and by these Presents strictly command you, that as soon as ever you receive them, and as you regard the divine Favour and ours, you desist from so impious and pernicious an Undertaking, as the Defence of the said Castle, and that you don't enter it by any Means whatsoever; but that you do procure, that the Inhibition given thro' your Instigation by the aforesaid Senators of* Viterbo, *be totally revoked. Otherwise we will have you to know, and certainly*

tainly to underſtand, that we ſhall proceed againſt you, by Authority of the Lord, both ſpiritually and temporally, as a Defender and Favourer of Hereticks. Anagni, 2 May, and ſixth Year of our Pontificate. Moreover he exhorts the Inhabitants of *Viterbo*, that notwithſtanding the contrary Orders of the Senators of the City, they ſhould proceed in an hoſtile Manner, to waſte the Lands of the aforeſaid *Capellus de Chia.*

But in our own Time the *Spaniſh* Inquiſitors are endeavouring to extend their Power and Juriſdiction further, and under the Pretence of Confiſcation of Goods, to ſeize on theirs alſo, who have any Commerce with the *Spaniards*, though they live in other Countries not ſubject to them, and have ſeparated from the Communion of the Church of *Rome*, becauſe they have in their Poſſeſſion ſome of the Effects of thoſe who are in the Priſon of the Inquiſition, or condemned by the Inquiſitors, according to the daily Practice of Traders and Merchants. Of this the Inquiſition of *Madrid* gave a remarkable Inſtance a few Years ago. *Feb.* 1687. Many Perſons were thrown into the Inquiſition at *Madrid*, accuſed of being concealed *Jews*. Amongſt theſe were *Diego* and *Anthony Diaz*, and *Don Damianus de Lucena.* About the End of *Auguſt* 1688. Sentence was pronounced againſt them, by which all their Effects were confiſcated, and they themſelves ſent to *Toledo*, there to perform wholeſome Penance. Theſe Perſons traded with *Peter Poulle*, a Merchant of *Amſterdam*, who was neither a *Jew* nor a *Spaniard*, but a Chriſtian, and a *Dutchman*, who had in his Hands ſeveral of the Effects of theſe *Spaniards*. The Inquiſition, in order to poſſeſs themſelves of thoſe Effects, which were not ſubject to their Power, diſcovered by private Enquiry, that this *Dutch* Merchant traded with ſeveral *Spaniſh* Merchants, and that he had a great many Effects in their Hands, and therefore ordered them all to be ſeized by the Receiver of the forfeited Goods, till they had the Value of thoſe Effects, which the *Amſterdam* Merchant had in his Cuſtody; and gave this Reaſon for the forcible Seizure, that the impriſoned Perſons had a Claim upon the Eſtate of the *Dutchman*, and that their Claim was devolved upon the Inquiſition, and that therefore they had the ſame Right as the Priſoners themſelves to attach the others Effects, wherever they could be found in *Spain*: However, this Endeavour was in vain, becauſe no Confiſcation can be juſt, of ſuch Effects which are in the Poſſeſſion of another Perſon, who lives out of the Territories of the Judge, and is not ſubject to his Juriſdiction; and therefore the Lords of the united Provinces, at the Information and Requeſt of the *Amſterdam* Merchant, obtained that thoſe Effects ſhould be reſtored to him.

This Puniſhment of Confiſcation is inflicted upon all who are convict of Hereſy, or confeſs, whether they repent, or perſiſt in their Hereſy, becauſe they are declared to incur the Puniſhment, *ipſo jure*, as ſoon as they fall into Hereſy.

Pegna, *Com.* 148. *in* 3 *Part. Direct.*

But if any return of their own Accord to the Church, before they are accuſed or denounced, or immediately after their being ſeized give a full and genuine Confeſſion of themſelves, and of all others whom they know to be Hereticks, and who return with a pure Heart, before the Depoſitions of the Witneſſes are made publick, as they may be graciouſly ſaved from Impriſonment, ſo

so for the same Reason it seems equitable, not to confiscate their Goods. In *Italy* 'tis rather owing to Custom, than to any Right given by the Popes, not to confiscate the Estates of penitent Hereticks. But in *Spain* this Confiscation of the Effects of Hereticks takes place, even tho' they are penitent, by the Papal Authority, and the Laws of their own Kings; for there they believe that the Inquisition ought not to restore the forfeited Goods even of Penitents, to the Damage of the Treasury, when once it hath a Right to confiscate them. Simancas *tit.* 42. §. 17. & *t.* 47. §. 15.

But if any return to the Church within the Time fixed by the Inquisitors, the Catholick Kings have ordained, that they may recover and dispose of their own Effects, as tho' they had never fallen into Heresy, except they attempt to alienate their immoveable Effects; for this they are prohibited to do, without a Decree of the Prince, lest they should dispose of all their Effects, and fly over to the Enemies of the Catholick Religion. 2 *Instruct. Cap.* 5. §. 17.

In the Conditions of Peace prescribed to *Raymond* Earl of *Tholouse*, it is farther provided, *That the Goods of such as are heretically cloathed, shall be confiscated, even tho' they have of their own Accord forsaken the Manners of the Hereticks, unless they can produce Letters testimonial of their Reconciliation, or can make it appear, and prove it by other Catholick and reputable Persons. And altho' there be good Proof of their Reconciliation, yet they are subject to the same Punishment, unless they wear Crosses according to the Admonition of their Bishop, or if they lay them aside by their own Authority, or if they are found to conceal them within their Garments, when they ought to wear them upon the Outside of their Cloaths, hanging down upon the Forepart of their Breasts.* Bzovius, *a.* 1228. §. 6.

But whereas the Children of the condemned Persons are by this Punishment reduced to the extreamest Want, being thus stripped of every Thing that belonged to their Fathers, to make it appear that they don't wholly abandon the Care of them, 'tis order'd, that the Inquisitors, out of the Dictates of Mercy, may make some Provision for the poor Children of condemned Hereticks, according to their respective Sexes and Ages. Lusty Boys they order out to some mechanick Trade. The Girls they put to Service to some honest Matrons of the City, that they may be instructed in the Faith. As for those who can't work, either thro' their Age, or bad Health, their Pity reaches no farther than to give them a mere Sustenance out of their Fathers Effects, sometimes intreating the Ecclesiastical and Secular Princes to exercise a little Liberality towards them; which they especially ought to do, who receive these forfeited Effects. In relation to which 'tis thus provided in *the* Seville *Instruct.* c. 22. a. 1484. *In like manner they have decreed, that if there be any unmarried Sons or Daughters of Persons delivered over to the secular Court, or condemned to perpetual Imprisonment for their Crimes, the Inquisitors shall provide and order, that the aforesaid Orphans shall be recommended to some honest Persons, and Catholick Christians, to be bred up, and diet with them, and to be instructed in the Catholick Faith; and let them draw up an humble Petition for the aforesaid Orphans, in Reference to their Condition, what they want, and whether they are good Christians, especially for the poor Girls, that they may either marry, or profess.* In our own Time they Pegna *in Direct.* *p.* 103.

leave nothing for the Children of Hereticks, tho' they prove Catholicks, no not so much as seems due to them by the Law of Nature.

The next Punishment that follows this Confiscation of Goods, is the disinheriting the Children, insomuch that tho' they are Catholicks, they can never inherit the Estates of their Fathers who died in Heresy. Cap. *Vergentis in senium* de hæret. *Neither ought any Pretence of Compassion to prevent this severe Censure of disinheriting even their orthodox Children, since in many Cases the Judgment of God so proceeds, as that the Children are temporally punished for their Fathers, and because, according to the Canonical Sanctions, Crimes are revenged not only upon the Authors of them, but upon their Posterity.* Zanchinus adds, that the Children of Hereticks are incapable of succeeding to any of their Kin, or to other *Persons*, whither *they die* with a *Will* or *intestate*. *John Royas* adds, that the Children of Hereticks, tho' born before the Commission of the Crime, are comprehended under the canonical Penalties and Prohibitions, and says this is the common Opinion of the Doctors. The Reason is, because Heresy is a spiritual Crime, and doth not derive its Original from the Flesh; and therefore it signifies nothing whether the Children be of the infected Root or not. But if a Son accuses his heretical Father, as his Reward, he is freed from the Penalties ordained against the Children of Hereticks, according to the Law of the Emperor *Frederick. We don't exclude from the Bounds of our Mercy such who, far from following the Heresy of their Fathers, shall discover their Wickedness; so that to whatever Punishment the Fathers Guilt is subject, let their innocent Children be freed from it.*

Cap. 28. §. 2. *part.* 2. *Assert.* 44.

The third Punishment is, their being rendred infamous. Cap. *Excommunicamus.* 1 §. *Credentes.* de hæret. There, amongst other Things, 'tis said, *Let him be* ipso jure, *infamous; let him not be admitted to any publick Offices, or Counsels; nor to chuse any into them, or to bear Witness; let him also be Intestable*, so that he can have no Power to make a Will, or to inherit by Virtue of one. Farthermore, let no one be forced to answer him upon any Affair, but let him be forced to answer others. If he should happen to be a Judge, let his Sentence be void, and no Cause be referred to his Hearing. If he be an Advocate, let him not be admitted to plead. If a Notary, let no Instruments, drawn by him, be valid, but condemned with their condemned Author. And in all like Cases we command the same to be observed.*

Direct.p. 3. *Qu.* 116. *com.* 165. Simanc. *tit.* 46. §. 74.

The fourth Punishment is, that they are deprived of all Dominion, natural, civil, and that which is introduced by the Law of Nations. First, they are deprived of that natural Power they have over their Children. Cap. *Quicunq*; §. ult. de hæret. l. 6. Being thus deprived of the natural Power of Parents, they lose all Authority over their Children, who, becoming as it were Strangers and Foreigners from their Fathers Family, are under no Obligation to obey them as before. This Crime of Heresy in the Father, even before 'tis declared by the Church, frees the Son from his Father's Power, according to the Gloss in Cap. *Quicunq*; §. ult. verbo *desierint*, de hæret. l. 6.

Direct.p. 3. *Qu.* 119 *com.* 168.

Farther, they are deprived of that civil Power which they have over their Servants, and of that political Power, which they have over any others subject to them. *Cap. ult. Extrav. de hæret.* So that Slaves, Freed-men and Ser-

* See Marginal Note, *Vol.* I. *Pag.* 76.

vants

vants are *ipso facto*, freed from Servitude, and every Instance of Duty, the Moment their Master falls into Heresy. In *Spain*, if the Slaves are Believers, or profess the Christian Religion, when their Master falls into Heresy, they recover their Freedom, according to the *Seville Instruction*, An. 1484. cap. 24. *Our Lords the King and Queen, out of their Goodness and Clemency, will and ordain, that the Servants of all Hereticks shall be made free, provided that if whilst they lived with them they were Christians.* But if they had not professed the Christian Religion, they are forfeited with the other Effects. And tho' such Slaves should have been made free by their Masters, yet if it was after their becoming Hereticks, 'tis for that Reason null and void.

Subjects, when the Prince or Magistrate is an Heretick, are freed from their Obedience. Thus it hath often happened, that Kings pronounced Hereticks by the Pope, have, with all their Posterity, been deprived of all their Dignities, Jurisdictions and Rights, their Subjects absolved from their Oaths of Allegiance and Fidelity, and their Dominions given as a Prey to others.

And finally, they are deprived of that Power, which is introduced by the Law of Nations, whereby they lose all Property in every Thing they have. Cap. *cum secundum leges.* de hæret. l. 6. insomuch, that every one is at once wholly freed *Qu.* 119. from every Obligation he can be under to Persons fallen into manifest Here- *com.* 168. sy. Cap. *absolutos*, de hæret. *Let all know that they are freed from the Debt of Fidelity, Dominion, and all Service, to manifest Hereticks, how strong soever the Obligations may be which they are under.* These Things are thus inferred: " First, if an Simanc.
" Heretick deposites any of his Effects with any Person, such Person is not *t.* 46.
" obliged to restore them to the Heretick, after his Heresy is manifest, but §. 73.
" to the Treasury. Farther, a Catholick Wife is not obliged to any Du-
" ty to her heretical Husband, because by the Husband's Heresy she is freed
" from her Duty. In like manner a Catholick Husband is freed from all Du-
" ty to his Wife, if she be an Heretick. Neverthe less they can't marry with
" others, because the Band of Matrimony is not dissolved. An Husband can't Royas, *p.* 2.
" be forced to cohabit with his Wife if she is fallen into Heresy, even tho' *Assert.* 40.
" she is reconciled; nor is he bound to maintain her, because her Dowry is §. 325.
" confiscated by Heresy; and as she is stripped of her Dowry by her own
" Fault, the Husband is not obliged to maintain an unindowed Wife. *Zan-* c. 18. §. 2.
" *chinus Ugolinus* explains this Matter more largely. The very Children,
" Brothers and Sisters of Hereticks, ought to forsake them. Yea, the very
" Band of Matrimony with such is dissolved. For if any one departs from the
" Orthodox Faith, and falls into Heresy, his Wife is not obliged to cohabit
" with him, but may seek to be separated from him by the Judgment of the
" Church, such Separation of the Bed being as reasonable upon account of
" spiritual Fornication, as for carnal. And if any Heretick shall, after his
" Fall, return to the Unity of the Church, the other married Person shall be
" obliged to return to him, if they were not before parted by the Sentence of
" the Church. But if they were parted by Sentence, it shall be at the Op-
" tion of the other Party who continued in the Faith, whether to return, or
" *become Religious*; because such Party can't *remain* in the World, and take

" another

"another during the Life of the Party converted, because made whole by "Penance.

Simanc. *ibid.* "Moreover, the Governors of Forts and Castles, of People or Cities, are "not obliged to restore them to their heretical Lord, nor to keep them in "his Name. Finally, all Vassals whatsoever are *ipso jure*, freed from every "Obligation to their Lords, tho' such Obligations shall have been con-"firmed by an Oath."

Hence proceeds the Maxim, that Faith is not to be kept with Hereticks, which some are not afraid openly to teach; altho' those who are more wise in *Germany*, *France*, and the *Low Countries*, endeavour to wipe off this Spot from their Church. But the *Spaniards*, tho' they can't be daily charged with this Perfidiousness, because they have none whom they call Hereticks living amongst them, yet assert it in plain and open Words, without dissembling, and are not ashamed to defend and confirm it by the Practice of the Council of *Constance*. See amongst others, *Simancas Cathol. Instit. Tit.* 46. §. 52, 53, 54.

This then is one Part of the Punishment of Hereticks, and what tends to render them more odious, that Faith is not to be kept with them. (*tit.* 46. §. 52.) For if it is not to be kept with Tyrants, Pirates, and other publick Robbers, because they kill the Body, much less is it to be kept with obstinate Hereticks, who destroy the Soul. And therefore certain Hereticks were most justly burnt by the grave Decree of the Council of *Constance*, tho' they had the Promise of Security. St. *Thomas* also is of Opinion, that an intractable Heretick is to be betrayed to his Judges, notwithstanding a Catholick may have given his Faith, and bound himself by an Oath to the contrary. (§. 53.) Add to this, that the Catholicks ought to have no Commerce, nor enter into Peace with Hereticks; and therefore notwithstanding the Faith given to them, and confirmed by an Oath, it is not to be kept, because against the publick Good, the Salvation of Souls, and contrary to the Laws of God and Man. But if Faith be given to Hereticks by a Prince, or any publick Power, 'tis to be exactly preserved, (§. 54.) excepting only in those Things which the inspired or natural Law forbids the Performance of.

To the same Purpose speaks *Brunus*, altho' many now endeavour to disguise this Villany. (Brunus, *l.* 3. *c.* 15. §. 8.) No Peace can, at this Day, be confirmed with Hereticks, who spread their impious Doctrine amongst the Christian People by their wicked Preaching, if made on this Condition, that they must not be offended. Yea, so much the more to be abhorred and abominated is Peace made with Hereticks and Schismaticks upon this Condition, that such as offend them shall be condemned for Breach of the Peace. For how can Peace be broken by offending them, with whom no Christian Man ought to have Communion, and whom they ought not to bid God speed? Such may safely be offended, who by the Civil Laws are put under the Imperial Bann, who are permitted to have no Liberty of meeting or abiding on the *Roman* Ground, or indeed in any Place, wherein they may injure the very Elements themselves, and finally, who by all Laws human and divine, deserve to be extinguished.

The

The ſame Perſon teaches, that no Covenants, Conventions or Laws are firm, that permit Hereticks to have or reform Churches, or to poſſeſs or adminiſter their Revenues; or by which the Proceſſes of Churches againſt Hereticks or Schiſmaticks, that are or may be moved in Judgment, are wholly put off, or ſuſpended for a Time, or for ever; or finally, by which Hereticks and Schiſmaticks are permitted to exerciſe any Juriſdiction or Adminiſtration, either by themſelves or with Catholicks, or to enjoy any publick Offices. *C.* 16, 17, 18.

Moreover, all Places of Refuge, which are open to Malefactors and the worſt of Villains, are denied to Hereticks, as tho' they were the very Offſcouring of the Earth, and had put off the very human Nature at the ſame time they did the *Roman* Religion. Thus *Simancas*: "An Heretick flying to *tit.* 46.
" a Church, ſhall not be protected by the Sanctity of the Place, *i. e.* the Im- §. 65.
" munity of the Churches. And therefore *Gundemir*, King of the *Goths*, who
" granted this Immunity to the Churches of *Spain* more than 900 Years ago, *Tit.* 46.
" excepted three Sorts of Men from it, *viz.* Thieves, Traytors and Here- §. 65.
" ticks, as *Peter Medina* relates in his Life.

" *Simancas* adds, That altho' in almoſt all Crimes nobler Perſons are ſubject §. 67.
" to one ſort of Puniſhment, and the meaner to another, yet in the Crime of
" Hereſy the ſame Puniſhment is appointed for all, without Reſpect of Per-
" ſons. So that a noble Perſon falling into Hereſy is infamous and vile, and
" muſt ſuffer the Puniſhment due to the meaneſt. For there is no Difference in
" Matters of Faith and Religion between the Great and the Small, the No-
" ble and Ignoble. The Law of *Honorius* and *Theodoſius* ſays, They are all §. 68.
" equal to one another, who are equal in the Pravity of Doctrine. And ano-
" ther Law ſays, They who are alike defiled, and made equal by their
" Wickedneſs, are equally ſubject to the ſame Puniſhment, *l.* 49. *tit.* 4. *lib.* 16.
" C. Theod. and *l.* 1. *tit.* 27. *lib.* 9.

Finally, they teach, that heretical Kings are to be deprived of their Kingdoms for Hereſy. Thus *Simancas*: "'Tis enquired whither the Kingdom §. 75.
" of an heretical King, who hath no Superior, can be confiſcated? The Rea-
" ſon of the Doubt ariſes from this, becauſe the Goods of Hereticks are for-
" feited to the ſuperior Lord. And therefore *Alphonſus Caſtrenſis* is of Opi-
" nion, That ſuch Kingdom belongs to the Catholick Son of an heretical
" King, in the ſame Manner as it would if the Heretick were dead. But if
" the Son and next of Kin be alſo Hereticks, a Catholick Kingdom may
" chuſe themſelves an Orthodox King. But if the Kingdom be heretical, the
" Election of a Catholick King belongs to the chief Pontiff." This Opinion is not diſpleaſing to *Simancas*, tho' he adds, that it may juſtly be ſeized on by the Catholicks.

The fifth Puniſhment is Impriſonment. For altho' by the Civil Law the Priſon is only to detain Men, yet by the Canon Law it may be uſed as a Puniſhment. C. *Quamvis* de pœnis, lib. 6. So that an Heretick either confeſſed or convict, may either be delivered to the ſecular Court, or condemned to perpetual Impriſonment. In which Caſe the condemned Perſon ſhall be puniſhed at the Option of the Judge. Brunus, *l.* 5. *c.* 12.

The

Brunus, *l.* 5. *c.* 14. The sixth Punishment is the Bann and Diffidation *. Authent. *Gararos.* c. de hæret. The Bann is that Sentence, by which any Person is cast out of the Commonwealth, so that he can't enjoy the publick Protection, or discharge any publick Offices, or receive any Benefit of Law, and hath some Likeness with Excommunication. For as by Excommunication a Person is cast out from the Converse of the Faithful, so by the Bann he is excluded from the common Good. Diffidation declares Hereticks to be Enemies of their Country and the Empire. Its Effect is this: When any one is declared an Heretick by the Sentence of the Judge, any Man, by his own private Authority, may seize, plunder and kill him, as an Enemy or Robber, even tho' he be a Clergyman. He may be capitally punished as a Deserter, and attacked with Impunity where-ever he is found. That Hereticks may thus be seized on, and plundered by the private Authority of any Man, *Innocent* IV. openly determines by a Rescript, beginning, *Ad extirpanda*, in which, amongst other Things, there are these. *Also the same Governor or Ruler of any City or Place, in the Beginning of his Government, shall hold a publick Assembly as usual, and put under the Bann of that City or Place all Hereticks of both Sexes, and of whatsoever Name or Degree, even as he would the vilest Offenders, and shall be bound to confirm the Bann they were put under by his Predecessors; especially that no Heretick, Man or Woman, may any longer inhabit, abide, or dwell in the City, in any Part of its Jurisdiction, or District of the same. And whosoever shall discover him or her, he may freely and safely apprehend and seize them, and lawfully strip him or them of all their Effects, which they who take them shall have full Right to, unless they happen to be in Office.* And this Plunder of Hereticks *Brunus* tells us is by divine Right. *Hereticks, by divine Right, may be stripped of all their Effects, as unworthy their Possessions. For the Just shall devour the Labours of the Wicked; and therefore Catholicks may claim the Places of Hereticks. These Things are permitted against Hereticks, because Religion and the Christian Faith is endangered by their Impiety.* Austin Epist. 48.

Direct. 3 *part.* *com.* 36.

De hæret. *l.* 5. *c.* 5. §. 2, 4, 7.

Brun. *l.* 5. *c.* 16. §. 13. "But if an whole City or Community favours and defends Heresies, or "nourishes Schism against the Catholick Church, let it be out-lawed, and "put under the Imperial Bann. The Consequence of this will be, that a City "thus banned and out-lawed will become an Enemy of the Empire, and all "its Citizens, as Enemies, may be with Impunity hurt in their Persons and "Goods, and be all of them expelled, by the Prince, from such Cities where "they dwell. Such a City may be also subject to such a Punishment as is proportionable to Death it self; *i. e.* by the Civil Law it may be erased "from its very Foundations, and by the Canon Law burnt to Ashes. "This Punishment the Canonists derive from *Deut.* xiii. where the *Israelites* "are commanded to burn that City which should serve other Gods, and de"stroy it utterly, and all that is therein, and the Cattle thereof, with the "Edge of the Sword. And there are some who think this is allowed to every

* *Diffidare* is properly to withdraw by Letters or Writing, that Protection, which one owes to another, or hath promised him.

one,

"one, and that the Church hath granted Authority to all to extirminate Hereticks; tho' others are of Opinion this can't be done but by the Authority and Command of their Superiors; which Opinion, according to *Brunus*, is the safest, if not more agreeable to Law, as *Dominick* apprehended it was. But the most necessary Thing of all is, that no Injury be done to heretical Universities or Communities, before they are pronounced guilty of this Crime by a declaratory Sentence."

But if Hereticks are apprehended, 'tis not lawful for any one to undertake their Defence *. All Advocates or Notaries, who give Assistance or Favour to Hereticks or their Abettors, or who plead for them when under Examination, or draw any Instruments for them, are pronounced infamous, and suspended from their Office †. Hence they infer, "That no one must defend, or be an Advocate for any who are known to be Hereticks. As often indeed as this is doubtful, and it is not yet certain whether the Words or Deeds objected against any Person as heretical, do savour of manifest Heresy; or whilst the Charge of Heresy is not confirmed by Witnesses, or other legal Proofs, any one may be Advocate for him, and plead in his Defence; *i.e.* if the Inquisitors allow him, and provided he take an Oath before-hand to make a just Defence, and to desist from it as soon as ever it shall be known that the Person he defends is an Heretick. And this is always the Method observed." Pegna *in Direct.* p. 104.

The last Punishment of Hereticks is that of Death, and that not the common one, but the most terrible that can be inflicted; *viz.* to be burnt alive. This they infer from 2 *Kings* xxiii. where *Ozias* commanded the Bones of the heretical Priests to be burnt; and from the Words of our Lord, *John* xv. 6. *If a Man abide not in me, he is cast forth as a Branch, and is withered, and Men gather them, and cast them into the Fire, and they are burned.* Here *Brunus* observes, some think that this Punishment was introduced only by Custom, and can be proved by no other Right, whither divine or human. This is his Opinion, for, says he, *this Punishment can't be inferred from that Passage of the Gospel, of throwing the Branch into the Fire. For this speaks of the eternal Fire of Hell, and not of the temporary Punishment of Fire. Nor do the Civil Laws prove this Punishment. For tho' they fix that Punishment against Hereticks, which we call Death, yet they don't express this kind of Death,* viz. *the Punishment of Fire; which undoubtedly the Lawgivers would have done, if they had determined to appoint it against Hereticks; especially as the Punishment is so terrible, that they expresly mention it, when ever they think the Heinousness of the Crime deserves it; as may be made appear from other Constitutions, where this Punishment is particularly specified.* [However, *Ludovicus a Paramo* finds out this Punishment of Fire in many Places of the New Testament. "*James* and *John* thought that the *Samaritans*, who would not receive our Lord, should be destroyed with Fire from Heaven, according to St. *Luke*. Cap. 9. See here now the Punishment of Hereticks, *viz.* Fire. For the *Samaritans* were the Hereticks of those Times, *Mat.* xxi. and xxii. *Mark* xii. and *Luke* xx. Christ adds three Parables. One of the two Sons. l. 5. c. 13. §. 14.

* Cap. *Si adversus nos terra consurgeret.* de hæret. & cap. 2. §. 1. *de hæret.* lib. 6.

† See cap. *Excommunicamus.* §. *Credentes.*

" Another of the Vineyard let out to the Husbandmen. The third of the " Nuptial Feast prepared for those who were invited. By these he plainly " shews, that the Kingdom was to be taken away from the heretical *Jews*, and " their City to be burnt with Fire. See here now the very Confiscation of Ef- " fects, and Fire with which Hereticks are punished." Nor is this Reasoning to be wondered at in a Man, who every where in the Old and New Testament, and even in Paradise it self, finds out an Inquisition against Hereticks, and endeavours to prove by many Arguments, that God himself exercised the Office of Inquisitor of heretical Pravity against *Adam* in Paradise, *lib.* 1. *tit.* 2.] The first who ordained this Punishment of burning Hereticks, after it had been some time in Use in the Church of *Rome*, was *Frederick* II. by a Law which begins, *Inconsutilem.* §. 4. which says: *By the Tenor of this present Law, we decree, that the Patarenes, and all other Hereticks whatsoever, being condemned, shall suffer that Death which they affect, and that being committed to the Flames, they shall be burnt alive in the View of all Men.* This Law many Popes have confirmed, and therefore the Punishment of Fire hath been ordinarily inflicted upon impenitent Hereticks, as is the Custom of the Church of *Rome* to this Day. *Panormitanus* says *, *that Hereticks ought to be punished with Fire, and burnt, and that in this the Divine, Canon, Civil, and Common Law agree. Simancas* also † not only endeavours to prove by many Arguments, that Hereticks ought to be burnt, because Heathens and Hereticks thus punished the Catholicks, as *Eusebius, Ruffinus, Socrates* and others testify; but contends that 'tis the most antient Punishment, as appears from the Acts of the Council of *Chalcedon*; because the Bishop of *Alexandria* is there reported to have said, If *Eutiches* pretends to be wiser in his Opinions than the Church, he is not only worthy of Punishment, but to be burnt; and because, as *Nicephorus, Eccles. Hist.* Book 18. Chap. 4. relates, they ordered *Anatolius* the Heretick to be burnt alive.

De Cathol. Instit. tit. 46. §. 48. *Simancas* also infers this Punishment from a certain Law of *Theodosius*, saying, that *Theodosius* published a Constitution, in which are these Things. *Farthermore we command, that whosoever shall bring over a Servant or Freeman unwillingly, or by Persuasion, to the wicked Sect, or Ceremony from the Christian Worship, shall lose both his Fortune and his Head.* And a little after, *Let him farther know, that his Goods shall be forfeited, and afterwards he himself put to Death, who shall pervert any one from the Faith by false Doctrine. Simancas* adds, *A Law truly worthy of a* Spanish *Emperor.* Vid. Cod. Theodos. *Tit.* de Judæis L. prima. & lib. 16. tit. 6. l. 55.

§. 53. So that Hereticks must be punished with Fire, and if that can't be done, they must at least be banished and expelled, and their Effects forfeited, agreeable to the Laws of the old *Gothick* Kings in *Spain*, by which the Goods of Hereticks were confiscated, and they themselves deprived of Honour and Dignities, and banished for ever.

With this Punishment of Fire only Hereticks relapsed, obstinate and impenitent are punished, who, after Sentence, are delivered over to the secular

* In cap. *ad Abolendam.* de hæret. lib. 6. super gloss. in verb *Audientia*, allegans Hostiensem post Joan. Andr. † Cathol. Institut. tit. 46. §. 47. & seq.

Judge,

Judge, who was bound immediately to condemn them, and ſend them to the Fire. The Obſtinate were to be burnt alive; others to be firſt ſtrangled, and then burnt. 5 *Inſtruct. Hiſpal. cap.* 9. *Simanc. Ibid.* §. 49.

Sometimes this Puniſhment of Burning is heightned by another kind of Cruelty. In *Spain* and the *Netherlands*, leſt they ſhould ſpeak to the Spectators when brought to the Stake, and piouſly teſtify their Conſtancy, they were gagged with an Iron Inſtrument, ſo that in the Midſt of their Torments they could utter only an inarticulate Sound. Thus alſo *Simancas* pronounces, *That obſtinate Hereticks ſhould be burnt alive, and be brought to the Stake gagged, that they mayn't offend the little ones.* This Muzzle or Gagg the *Spaniards* in their Language call *Mordaza.* And if they could invent any Thing more terrible, they would not fail to uſe it againſt Hereticks. This *Carena* teſtifies, affirming that the Cuſtom of puniſhing Hereticks with Fire is moſt reaſonable, *becauſe Burning is the moſt terrible Death, and therefore the moſt grievous of all Crimes ought to be puniſhed with it; ſo that if any Puniſhment more terrible than this could be found out, it ought to be inflicted on Hereticks; and alſo becauſe by this Means the Heretick and his Crime is more ſpeedily blotted out from the Remembrance of Mankind.*

tit. 48. §. 6.

tit. 13. §. 1. Num. 7.

Thus we ſee that there is no kind of Puniſhment that can poſſibly be invented, but is enacted againſt Hereticks, and that greater Gentleneſs is uſed towards Thieves, Traytors and Rebels, thoſe Enemies of Mankind, than towards miſerable Hereticks; who endeavouring to worſhip God with a pure Conſcience, and regulate their Lives by the Goſpel Rule, yet oppoſe ſome Doctrines of the Church of *Rome*, which they are perſuaded are contrary to the Goſpel; and that it is a much more grievous Offence in that Church, to oppoſe certain Opinions by the clear Light of the Word of God, and to reject certain Phariſaical Superſtitions, than openly to contemn the divine Commands by an impious and profane Life, and vilely to diſhonour the moſt holy Name of God.

CHAP. III.

Of Open and Secret HERETICKS.

HEreticks are divided into ſeveral Claſſes in the Church of *Rome*, and this is very neceſſary for the Inſtruction of the Inquiſitors, that they may always certainly know what Sentence to pronounce upon each. However, every Thing is not ſo fully determined, but that there yet remain great Controverſies amongſt the Doctors and Inquiſitors themſelves, ſo that one of them often judges more favourably than another; and therefore 'tis of great Concern by what Inquiſitor any Perſon is to be judged; for he who happens to be condemned as an Heretick by a ſevere one, might have obtained a milder Sentence, had he been tried by a Judge of more favourable Sentiments and Opinions.

First of all Hereticks are divided into Open and Secret. " An open Heretick is one, who publickly avows ſomething contrary to the Catholick " Faith,

Eymer, p. 2. qu. 33.

" Faith, or who professes an heretical Error contrary to the Faith, or who " defends an Error of his own, or one of other Hereticks, or who is con- " victed before the Judges of the Faith of heretical Pravity, or confesses it " himself; or finally who is condemned for it by their Sentence.

Simanc. *tit.* 52. §. 3. " A secret or concealed Heretick is one who errs in his Mind concerning " the Faith, and purposes to be obstinate in his Will, but yet hath not shewn " it outwardly by Word or Deed. He who is a concealed Heretick in this " Sense, is generally called an Heretick purely intellectual: and the common " Opinion of the Doctors is, that such a one doth not incur the Sentence of " Excommunication, and is not subject to the Judgment of the Church for " his Heresy, because the Church hath no Power over purely internal Acts, " and cannot by its Jurisdiction direct, prohibit or punish them; and be- " cause Excommunication doth not belong to the Court of Conscience, but to " that of external Judgment.

Part. 1. § 240, &c. " *John Royas* however affirms, that the Canonists differ from this general " Opinion of the Divines, and determine that an altogether concealed Here- " tick is excommunicated, because there is no Need of the Service of Men in " Penalties which are *ipso jure*, contracted. For as a Man falls into Heresy " by a mere Act of his Will, so for the same Reason, because he by his Will " alone believes heretical Errors, he actually falls into Excommunication; " especially because Excommunication necessarily draws along with it imme- " diate Execution, and cleaves to Heresy as a Leprosy to a Leper, and a " Shadow to a Man. He adds: If any one contracts Heresy in his Mind and " Understanding, believing God was not incarnate, or that holy *Mary* was not " a Virgin, and doth not proceed to the external Act, by openly declaring it " to himself or another, but contains his Error and aforesaid Heresy entirely " in his Heart, but afterwards, through the Influence of better Counsels, for- " sakes and repents of it, and then comes, as hath been often done, to the In- " quisitors of heretical Pravity, confessing that he received and believed the " said Errors, desiring from them Absolution and wholesome Penance, is not " such an one an Heretick, even though altogether and entirely concealed and " mental, and by Consequence excommunicated, and therefore to be absol- " ved? And whereas 'tis objected, that the Church doth not judge of secret " Things, he adds, this is meant only of that Court, which consists of the " Actor, the Criminal, the Judge and Witnesses; whereas the Crime of He- " resy, tho' altogether concealed, requires nothing external, because 'tis a " mental Offence, and is committed by the mere Thought of the Mind, and

§ 115. " therefore the Church may well judge of this without the Judgment of a " Court, and by a Parity of Reason of Excommunication which cleaves to " Heresy. Besides the Church forbids the inward Acts of the Mind, and " declares a Person an Heretick, tho' secret or mental, and therefore it judges " of secret Things, and therefore why not of Excommunication, which ad- " heres to Heresy. This is a Decision of great Moment. For an excom- " municate Person needs Reconciliation, and tho' the Reconciliation granted " to a Penitent be favourable, yet as 'tis the Absolution of Excommunication, " such Reconciliation is attended with Forfeiture of Goods and perpetual Im- " prisonment.

" But

" But a Perſon may be called a concealed Heretick in another Senſe, *viz.* Simanc.
" who by Word or Writing hath brought forth that Hereſy which he hath *tit.* 52.
" conceived in his Heart, tho' with Secrecy and Craft; ſo that 'tis called " concealed Hereſy, becauſe 'tis not notorious, and can't be proved. Such a " one incurs the Sentence of Excommunication, and is liable to the other " Puniſhments of Hereticks, becauſe he hath declared his Hereſy, tho' pri- " vately; and if he confeſſes his Hereſy before the Inquiſitor, and repents, " he is to be privately abſolved. Thus in *the* Seville *Inſtructions*, 1 Cap. 5. §. 11.
" where we have the general Form of publick Abjuration laid down, with " this Exception: *Unleſs the Crime be ſo ſecret, that the Penitent only knows it,* " *and it can't be diſcovered by another, in ſuch Caſe he is to be ſecretly reconciled and* " *abſolved*;" which they thus explain, When an Heretick hath declared or written down his intellectual Hereſy, and yet no one hath heard or read it, tho' others underſtand this of an Hereſy purely mental.

Altho' an Heretick be thus concealed, yet if he infects or perverts others, §. 12.
he is immediately to be diſcovered to his Judges without any preceeding Admonition. But yet they don't affirm that a concealed Heretick is obliged to betray himſelf, when he is asked by the Judge in a general Inquiſition, Whether he knows any Heretick. In like manner, when an Heretick purely mental confeſſes his intellectual Hereſy in the ſacred Court of Penance, he doth not incur Excommunication by this external Act, becauſe ſuch an Action is §. 9.
good and pious, and not liable to human Judgment.

CHAP. IV.

Of Affirmative and Negative HERETICKS.

HEreticks are farther diſtinguiſhed into Affirmative and Negative. Affir- Eymer.
mative are ſuch, who err in their Mind in Matters of Faith, and who *part.* 2.
ſhew by Word or Deed, that they are thus obſtinate in their Will, and open- *q.* 34.
ly confeſs it before the Inquiſitor. Negative Hereticks are thoſe, who, according to the Laws of the Inquiſition, are rightly and juſtly convicted of ſome Hereſy before a Judge of the Faith, by ſome lawful Witneſſes, whom either they cannot or will not refute, but yet who will not confeſs, conſtantly perſiſting in the Negative, and that they profeſs the Catholick Faith, and deteſt heretical Pravity. They except indeed againſt Facts committed many Years before, which are preſumed to be forgotten. But even this is not to be preſumed in Facts of Importance and Weight, according to the *Seville* Inſtructions, *An.* 1484. *cap.* 13. Such are, If any hath wilfully preached up heretical Propoſitions, or broken the Images of the Saints. Neither is this to be underſtood of Perſons of good Memories, but only of light Facts, and of Perſons naturally dull and forgetful. Who are to be eſteemed ſuch, and what Time is to be ſuppoſed ſufficient to ſuch Forgetfulneſs, is entirely left to the Eccleſiaſtical Judges, after they have weighed the Circumſtances of Perſons and Things.

He alſo is eſteemed by many a negative Heretick, and, as it were, diminute, confeſſed, and obſtinate, who doth not diſcover either all the Hereſies of which

which he is convicted, or the whole Time of his Offence, or all his Accomplices, if the Things are so fresh, as that he can't be supposed to have forgotten them. Amongst these sort of Negatives are also reckoned by some, such who confess before the Inquisitor heretical Facts or Words, but who deny any Pravity of Intention, altho' others, as we shall soon see, call them Impenitent.

Cathol. Instit. tit. 6. §. 19.

What their Punishment ought to be, the Doctors differ. *Simancas* says, That he who confesses heretical Words, but denies the Pravity of Intention, may be condemned as Impenitent, except the Matter be doubtful. In such Case he ought to be purged, or abjure, because of his being suspected, or put to the Torture, which is generally the Custom.

De hæret. part. 1.

But because this Case often happens in *Spain*, because of their new Converts from the *Jews* and *Moors*, *John Royas* handles this Matter largely, of which I shall here give you the Substance; from whence we shall know what sort of Christians they are, which the *Spanish* Kings have converted to their Church by the Fear of Punishment from amongst the *Jews* and *Moors*.

n. 1, *&c.* We know by Experience, how many there are who are detained for heretical Pravity in the Prisons of the Office of the holy Inquisition, who ingenuously confess heretical Deeds and Words, but who absolutely deny all rash Belief, and Pravity of Intention. Thus a Man may confess that he hath said, as often happens in examining Causes of Faith, that every one may be saved in his own Sect and Opinion, a *Jew* by the *Jewish* Law, a *Saracen* by the *Mahometan*, and a *Lutheran* in the *Lutheran* Sect. For the guilty Person sometimes confesses in his Discourse, that he pronounced the aforesaid Words inadvertently, and thro' the Error of his Tongue, and being asked by the Inquisitors of heretical Pravity, Whether he believes such Things, he says he never did, but that he ever held what the holy *Roman* Church preaches and teaches. Thus he denies the Intention, and only confesses the Words, which without doubt are heretical. Another Instance is of one who confesses that he said simple Fornication is not a mortal Sin, and yet denies all rash Belief and Error of Understanding, asserting that, speaking for Wantonness sake, he pronounced the aforesaid Words to some Wenches, which are in Reality heretical Words.

(Margin: 3. 4. 7.)

An Instance of an heretical Fact shall be in him, who being baptized, is afterwards circumcised, and observes the Fast called *Ramadan*, and the Passover, after the *Mahometan* Manner, and makes the *Zalah*, i. e. his *Adoration or Prayer* in his own Home or in the Mosques, washing first his Body, and especially his Privities, bending his Knees, bowing down, and lifting up his Head, and who feeds on Fleshes killed from the * *Keblah*. The new Converts in the Kingdoms of *Valencia*, *Aragon* and *Granada*, publickly observe many other sacrilegious and impious Rites. Another Example is of him, who especially if he be of the *Jewish* Race, observes the Sabbath by refraining from all Labour, and observes the other Festivals of the *Jews*, and who confesses such Facts and Words, but affirms that he said or did them inadvertently and ignorantly, and that he is ready to submit to the Correction of the Church. 'Tis queried,

(Margin: 10. 15. 33.)

* The *Mahometans* call that Part of the World, where *Mecca* is situated, by the Name of *Kebla*, towards which they are obliged to turn themselves when they say their Prayers. *Mecca* is situated towards the South.

whether

whether ſuch a one is to be accounted an Heretick, even tho' not convicted by lawful Witneſſes.

On the negative Side 'tis urged, that Hereſy ſuppoſes an Error in the Underſtanding, and Obſtinacy in the Will in adhereing to thoſe Things which 40.
are contrary to the Determination of the Church. Hence they infer that that 64.
of *Innocent* is reaſonable and true, who ſaid, That if any one believes what the Cap. *Firmiter de ſumma Trin.* &c. *n.* 6.
Church believes, but thro' the Influence of natural Reaſon falſely ſuppoſes that the Father is either greater than the Son, or before him, or that the three Perſons are three Things diſtinct from each other, he is not an Heretick, and doth not offend, becauſe he believes this is the Churches Belief, and ſuppoſes his own Opinion to be the Faith of the Church. Therefore he thinks 'tis but 66, 67.
reaſonable, that in the Defences of the Criminals, regard ought to be had to their Simplicity and Imprudence, ſo that the Puniſhment may be mitigated, and that the Judges, eſpecially the Inquiſitors of heretical Pravity, according to their Office, ſhould be very ſolicitous and diligent in examining and ſearching into their Defences, becauſe of the partial and maimed Defence of the Criminals, tho' the Party doth not ſeek it, or even refuſe it. But he adds, that 'tis §. 69.
antiently decided by the *Rota* 875 in C. *Accuſatus de hereſi*, in tit. *de hæret.* that if any one be accuſed of Hereſy, and legally convicted by Witneſſes or otherwiſe, and yet denies that he ſaid or believed ſuch heretical Things, yet that he ought nevertheleſs to be condemned as a negative and impenitent Heretick, and delivered over to the ſecular Arm, altho' he aſſerts that he believes, and hath believed as the Church believes.

However, the Doctors generally maintain the Affirmative, becauſe the §. 276.
Nature of Facts demonſtrate the Intention, Mind and Will of the Doers. For Inſtance, If any one ſhould do a properly *Jewiſh* Action, ſuch as obſerving §. 284.
the Sabbath, and other *Jewiſh* Rites, from thence is inferred the Intention and Will of *Judaiſing*. If the Intention doth not appear, in a doubtful Caſe, 'tis preſumed that this was done with the Intention of *Judaiſing*, when the Act or Commiſſion is certain, either from the Perſon's Confeſſion, or by Witneſſes, and eſpecially if the Perſon be ſuſpected. He therefore who confeſſes an heretical Action, and denies the Intention, which is the Quality affecting ſuch an Action to make it puniſhable or not, may poſſibly be condemned as a negative Heretick; at leaſt may be tortured to diſcover his Intention, as the Doctors are generally of Opinion, and as is the uſual Practice. But if the Fact be plainly heretical, ſuch as a Perſon's going over, or returning to the *Jewiſh* or Pagan Rites, 'tis ſufficient to his being condemned as an Heretick, that he be convicted of the Fact, altho' there be no certainty as to his *Belief*. They alſo make a Diffe- *Part.* 2.
rence between an heretical Word and Fact, and *Royas* gives the Reaſon of this §. 400.
Difference. There is this Difference between one who confeſſes an heretical Fact, and one who confeſſes an heretical Word, and denies the evil Intention; that he who confeſſes the Fact is to be delivered over eſpecially if he be a ſuſpected Perſon, and the Fact hath been repeated; whereas he who confeſſes an heretical Word, is to be tortured to diſcover his Intention. The Reaſon of the Difference is, becauſe there is a greater Affection of the Soul, and Deliberation of the Mind in Facts than in Words. To this they add, that there are §. 317.

other

other Sins, such as Covetousness, Intemperance, Lust, &c. to which Men are naturally prone. Others to which Nature doth not lead Men, yea rather to which the Appetite and Pleasure of Men is repugnant; such as, in the Time of a Fast not to eat till Night, or pray, or not to eat Swines Flesh, not to drink Wine, or to observe the evil Ceremonies of the *Mahometans* or *Jews*. As to the former, Men are carried into them by their own Wills. As to the latter, the Will is undoubtedly governed in its Choice by the Understanding, and therefore it may be concluded that they proceed from an evil Intention and
§. 356. *Belief*. So that if several Witnesses depose in general, that such a one hath a good Reputation, their Testimony deserves no Credit to prove such a one to be a Catholick, if he be convicted by two Witnesses, to have particularly said
§. 358. or done something repugnant to the Catholick Faith. This is the Case when the Action is forbidden. But if it be of an indifferent Nature, which may be either good or evil, they say there ought to be no Presumption of a Crime, but that the ambiguous Deeds or Words ought to be interpreted on the more
§. 366. charitable Side. If, for Instance, any one says, The *Lutherans* are more noble, *i. e.* in the Catholick Sense, the Peers and Nobles in *France* are *Lutherans* more than the common People, 'tis not heretical. If it be understood of the Nobility of their Virtues and Morals, 'tis suspicious; if of the Nobili-
§. 378. ty of Religion, 'tis heretical. But this they say must only be understood as to the full Proof of an Offence, and not as to any Presumption for which a Person may be tortured, especially if he be suspected. For in a doubtful Case Heresy is to be presum'd, and if the Proofs appear too plain, he is to be put to the Torture (because the Salvation of his Soul is concerned) that he may confess under Torture, and be reconciled, and receive his Penance, that if he be capable of Correction
§. 378. his Spirit may be saved, according to St. *Paul*. Farther, 'tis usual in this Office of the Inquisition, that in expounding the Words of any Proposition, the Nature and Condition of the Speakers be attended to; particularly whether the Words were spoken by a Countryman, of poor Capacity, in a blundring Way, and without Deceit and evil Belief; or by a learned Person, of an acute Understanding, and in a subtle Manner; for then they are to be understood to be deceitful. All these Things are to be considered by the Qualificator Divines, whom the Inquisitors call and consult, and to whose Opinions the In-
§. 384. quisitors ought wholly to assent. Finally, they affirm, that if the Mind and
§. 577. Intention is not to be proved by the external Actions, it can never be proved,
§. 590. and so the Crime of Heresy can never be punished. From hence *Royas* concludes, that he who confesses an heretical Action or Word, but denies the wicked Intention, denies that which is the principal Form and Substance, and is therefore to be delivered over as a diminute, impenitent and negative Heretick. The same is to be affirmed of him, who being fully convict of several
§. 595. Errors, confesses some, but denies others; because he is deficient in a substantial Part. 'Tis not so with one who confesses all his Errors, tho' not the several Times which are proved by legal Witnesses.

From this long Account, of which this is only the summary, one may infer, that 'tis the common Opinion of the *Spanish* Doctors, that such who confess an heretical Word or Action, but deny the Intention, are to be put to the Torture

ture to make them confess such Intention; but that such who confess an heretical Deed, and deny the Intention, are to be sent back as negative Hereticks, and delivered over to the secular Court. Yea, as to doubtful Words, it is to be presumed there is Heresy; not so indeed as to be full Proof, but so far as to be a just Reason for the Torture.

Royas affirms the same of such who retract the Confession they have made when under Examination. "He who confesses his heretical Errors when under "Prosecution, and afterwards retracts his Confession, is to be delivered over as "a Negative, unless the Mistake plainly appears. For by Confession the Offence is fully proved, and by retracting it, the guilty Person becomes obstinate, impenitent and negative. And therefore unless the Mistake appears, he is "to be delivered over even though there be no other Proof of the Crime, and "although his Confession was made and confirmed under Torture. For "this is the same Thing as a free and spontaneous Confession, although "afterwards revoked, if the Mistake doth not plainly appear." *Part.* 2. *Assert.* 25.

CHAP. V.

Of HERETICKS *Impenitent and Penitent.*

OTHER Hereticks are called Obstinate, or Impenitent, others Penitent. An impenitent one is he, who being legally convict of Heresy before a Judge of the Faith, or having confessed it, will not obey his Judge, when he commands him to forsake his Error and abjure it, and give competent Satisfaction, but obstinately perseveres in such Error. Eymer. *part.* 2. *q.* 40.

Simancas distinguishes between an obstinate Heretick and an impenitent one. *Tit.* 48.

"Whosoever believes any Proposition to be true, and knows the contrary "Opinion to be the Catholick one, is for this Reason only a consummate obstinate Heretick. §. 7.

"There are others whose Obstinacy is not fully manifest, but who are accounted as consummate obstinate by the Presumption of the Law. Every one "for Instance, who being capable of Reason, denies any Proposition of the Catholick Faith, publickly known amongst all the Faithful; especially if he "appears to be a skilful and wise Person; because he is presumed to know "what all know, and what all Christians are bound explicitely to know. §. 9, &c.

"2. He who asserts any Heresy, having before taught the contrary Catholick "Truth, even tho' he errs in such Propositions, which he was not bound explicitely to know. But however this doth not hold, when 'tis propable there "may have been Forgetfulness, either through Length of Time, Decay of Memory, or Foolishness. 3. He who for a long while persists in an Error, the "contrary Catholick Truth of which he was not bound explicitely to know; §. 10. §. 11. §. 12.

"because his persisting in Error is his own Fault, which he is bound to for-
"sake under Necessity of Salvation, and because he is negligent in his Search
§. 13. "after Truth, in which the Christian Salvation consists. 4. He who hinders
"the Preaching, Defence and Doctrine of the Catholick Faith, and contemns
"the Censures of the Church; and also he who swears he will never depart
"from his Error.

§. 15. "And although any Person should err thro' probable Ignorance, yet if after
"legal Admonition he doth not immediately repent, he is to be accounted
"obstinate; because he is then as truly an Heretick, as if he had willingly
§. 17. "erred from the Beginning. A legal Admonition is to be judged of accord-
"ing to the Nature of the Heresy. In Heresies plainly condemned, that is a
"legal Admonition, if it be shewn to the erroneous Person, that the holy
"Scripture, or the Determination of the Catholick Church be contrary to his
"Heresies. But if the Heresy be not condemned by Name, evident Argu-
"ments shall be esteem'd as a just Admonition; in a Word, whatever is a
§. 6. "probable Cause to recover the Erroneous from his Error." *Obstinate Here-
ticks*, according to *Simancas*, *are to be burnt alive, and delivered over to the
Fire with their Mouths gagged, and their Tongues tied, that they may not offend*
p. 3. t. 14. *the little ones. For in this*, says *Carena*, *'tis the only kind of Piety, to be cruel,*
§. 13. *whilst he is Impenitent.*

n. 92. "An impenitent Heretick is one, who will not repent of his Error, as to
"which every impenitent Person is also obstinate. So that if his Heresy be
"plainly proved, and he will not confess his Error with a pure Heart, nor
"readily abjure his Heresy, and submit to the Penance enjoined him, he is
"to be left to the secular Judge as obstinate and impenitent, although he pro-
"tests a thousand times over that he was and is a Catholick, and is resolved
§. 27. "to live and die in the Christian Faith. So that the Impenitent is the same
"that others call Negative; and if such a one be convicted to have said or
"written any Heresy, it signifies nothing, though it be proved that he was
"a Catholick before, or after, and every time else, unless he will return to
"the Church, and submit to his Penance."

But *Simancas* gives a different Account, *viz.* That a Person may always retract his Confession before the Tribunal of the Inquisition, and that his last Confession only is to stand, from whence 'tis to be concluded, whether he be a penitent or impenitent Heretick. If he persists in his Confession, and submits himself to the Church, he is penitent. If he retracts his Confession,
Tit. 13. he is accounted and punished as an Impenitent. His Words are plain. "In the
§. 14. "Process of the holy Inquisition, the guilty Person may retract his Confes-
"sion when and how he pleases; and although he gives no probable or suffi-
"cient Reason, his Retractation is to be admitted; and his last Confession is
"to stand, whether it be for or against him; for by this 'tis to be determi-
"ned, whether the Criminal be penitent or impenitent. And this is the
"Course of the Law."

If it should happen that any one should confess through Fear of Punishment, yet he must not assert his Innocence, upon Pain of being again delivered to

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the Inquisition, and punished as Impenitent. So that 'tis not lawful so much as to mutter any Thing against the Judgments of this holy Tribunal, tho' they are unjust. This *Simancas* plainly teaches. "He who is reconciled to §. 25. "the Church, and says he never was an Heretick, but that he confessed "Things he never committed, through Fear of false Witnesses, is to be pu-"nished as an Impenitent, unless he repent. This is upon Supposition that §. 26. "he hath not satisfied the Penance enjoined him; for if he hath performed it, "he is rather Rash than Impenitent. Now rash Persons are to be punished "according to the Pleasure of the Judges, and sometimes to be scourged and "threatned with more grievous Punishments, if they afterwards fall into the "same Rashness." *Zanchinus* treats more distinctly of such Persons. "If *de haeret.* "any one, after having confessed his Error, and receiv'd Sentence of Penance, *cap.* 23. "retracts his Confession, and says that he confessed through Fear of Charges, "or some greater Punishment, he appears by this his Retractation not to have "been really but feignedly converted, and is therefore to be punished as an "Heretick; and if he hath abjured in his first Confession, he may be looked "on only as a feigned Relapse; but if he persist in his Denial, he may be con-"demned as an obstinate Heretick."

In the mean while, that they may not appear to be the Defenders of any unjust Sentence, they allow innocent Persons, who, wearied with Imprisonment, and through Fear of Death, have confessed Crimes they never committed, to have their Cause reheard before the Inquisitors, but with such a Limitation, as is enough to deter the most innocent Person in the World, which *Simancas* thus describes to us. "An innocent Person, who, through *Tit.* 13. "Fear of Witnesses, and wearied out with Imprisonment, confesses he hath §. 27, 28. "been an Heretick, if he can prove his Innocence, ought not to neglect his "Reputation, but to have the Cause heard over again by the Inquisitors. But "if he can't refute the Witnesses, nor justly retract his Confession, he ought "to confess that Sin to his Parish Priest, and do nothing more, lest something "worse should happen to him;" *i. e.* lest he should be dismissed as an Impenitent, and delivered over to the secular Court.

Besides these, there is another Kind of Impenitents, *viz.* such who have professed their Heresy, but don't observe the Penance enjoin'd by the Inquisitor. Such are thought to be but feign'd Converts, and therefore Impenitent. Thus *Simancas*. "Those who don't satisfy the Penance enjoin'd them, *Tit.* 48. "ought to be punished as impenitent, perjured, and feigned Converts. They §. 29. "are Impenitent, because they don't perform Penance; perjured, because "they violate the Oath, by which they promised they would obey the Com-"mands of the Church; feigned Converts, because they neither perform "true Penance, nor remain in due Obedience to the Church." Friar *Bernard* *In voc.* *Comensis*, in his Light of the Inquisition, calls these Impenitent. But *Pegna* *Impoeni-* says, there is Need of mature Deliberation, and manifold Distinctions in this *tens. n.* 3. Matter.

However, *Simancas* doth not rank them with other Impenitents, because he adds, "That such Impenitents are not immediately to be left to the secu- §. 32.

" lar Court, but they must be dealt with by Law till the pronouncing the " definitive Sentence. Neither are they to be rooted up out of the Catholick " Church, till they have been once and again, and several times admonished " about the Salvation of their Souls, by learned, pious, and religious Men."

Eymer. p. 2. q. 40. Penitents are those, who, admonished by the Ecclesiastical Judge, abjure their Error, and give suitable Satisfaction at the Pleasure of the Bishop and Inquisitor. Of these there are two Sorts: Some come of their own accord, or within the Time of Grace, without being cited, or called by Name, or having any particular Inquisition made after them; whereas others return after being apprehended, cited, and inquisited, and oftentimes after many Admonitions. The first are treated with greater Mildness, and are sometimes enjoin'd a secret Penance, but must however abjure their Errors, and be bound under the Forfeiture of all their Effects to the Inquisition, to accomplish the Penance enjoined them. These Things we have in the Council of *Biterre*, cap. 5. *To such who confess within the Time of Grace, voluntarily and fully, and declare they will return to the Ecclesiastical Unity, grant them the Benefit of Absolution, according to the Form of the Church,* viz. *causing them to abjure every Heresy that exalts it self against the holy* Roman *Church, and the Orthodox Faith, under every Name whatsoever, and to swear that they will also preserve and defend the Catholick Faith, which the said holy* Roman *Church holds and preaches, and that they will prosecute to their utmost Hereticks of every Kind, convicted as well as condemned, their Believers, Receivers, Defenders and Abettors, by seeking after, accusing and seizing them, or at least, by faithfully discovering them to the Inquisitors, or other faithful Persons, who have better Inclination and Ability to apprehend them: And that in whatsoever Respect they are or shall be found to have offended in the same Crime, they shall abide by the Commands of the Inquisitors and Church, and receive and fulfil the Penance which at any time they shall enjoin them, and shall solemnly bind themselves thus to receive and fulfil it, under Penalty of forfeiting all their Effects to the Inquisition and Church.*

fol. 416. *verso.* In the same Council, towards the End, there is very strict Command, concerning the giving this pecuniary Caution. *As to such who return of themselves, without being accused by others, let the Inquisitor take diligent Care, that they give Money Security, after they have sworn to stand precisely by the Commands of the Church, and to observe and obey them. Afterwards let a private Penance be enjoined them at the Pleasure of the Inquisitor, and thus returning, let them be absolved and dispensed with. Clement* IV. in his Bull, *Licet ex omnibus*, commands the Inquisitors to look to it very carefully, that they be not deceived by a feigned Conversion. *But if any of the aforesaid Persons will wholly abjure their heretical Pravity, and return to the Ecclesiastical Unity, grant them the Benefit of Absolution according to the Form of the Church, and enjoin them the usual Penance, being particularly careful, that they do not fraudulently return by a feigned Conversion, and thus deceiving you, or rather themselves, wear the Wolf under the Appearance of the Lamb.*

As to those who do not voluntarily return, the Penance enjoin'd them is more severe, for they are accounted convict, and in some Measure forced. There is no particular Account to be given of their Penances, which are left to the

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Pleasure of the Inquisitors. The Manner they are herein to observe, we have in the Council of *Narbonne*, *cap.* 5. in these Words. *This we strictly enjoin in this Manner, because we would not have you enjoin all the Penances aforesaid every where, or subject all Persons to all of them, but that you should cautiously and wisely dispense them according to the Discretion given you by the Lord; according to the Nature of the Offences, Persons, Places, Times, and other Circumstances, so that whether you punish or pardon, the Life of Offenders may be amended; or at least that it may appear who walks in Darkness and who in Light, and who is truly penitent, and who a pretended Convert, that from hence there may be no Scandal to true Catholicks, nor under Pretence of Scandal, nor any other Way, as far as lies in your Power, by which Heresy may either be defended or nourished.*

But if there be a great Number of Penitents, the Council of *Taracon* hath decreed, that a prudent Judge may use somewhat of Moderation. *Likewise if* Bzov.
the Number of Hereticks, or their Believers be large, and they are ready to abjure a. 1242.
their Heresy, a prudent Judge may inflict Canonical Punishments on them, whether §. 4.
*greater or less, according to the Provision of the Apostolick See, and thus avoid the Punishment of Intrusion *. Or if the Number be not so very large, a prudent Judge may use Moderation according to his Discretion, as to the Believers in Hereticks, after having considered Circumstances. Provided always, that perfect Hereticks, or those who dogmatically affirm their Heresies, or Believers of them being relapsed into such Belief, after having abjured or renounced Heresy, shall be perpetually imprisoned, after having fully abjured their Heresy, and Absolution from Excommunication, that there they may save their Souls, and may not corrupt others.*

Finally, also the Council of *Narbonne* hath provided, *c.* 18. that none recovered from Heresy, if they had been greatly culpable, should be admitted to any Religion; in these Words: *And least such Persons should corrupt the Simplicity of Religion, let none of the aforesaid Criminals enter into any Religion whatsoever, without the Leave of the Lord Pope, or his Legate. And if any such shall have entered without their or your Leave, after the Inquisition against them hath been begun, or even before, without having confessed, and being canonically absolved, recal them.* Lastly, 'tis required that such as are reconciled, shall confess the same Crimes to their own Parish Priest, after they have been judicially absolved by the Inquisitors; which is also provided by the *Madrid* Instruction: *After* a. 1561.
the Penitent shall have been judicially absolved, let the Priest sacramentally absolve him. cap. 71.

But they will by no Means allow such to be received, who, after a long Time, and frequent Admonitions and Exhortations, scarce seem capable of Conversion, and especially if they appear so, at that Instant of Time, when they are to be deliver'd over to the secular Court; because the Fear of Death seems rather to induce them to seek Mercy, than the Love of Truth. Nor such who by Commands, Threatnings, Punishments, Rewards, sworn Promises, or any other the like Ways, endeavour to persuade any to Heresy, or obstinately to defend any Heresy they may have embraced. Nor finally such, who have persuaded, or endeavoured to persuade, Kings, Princes, the Queen, or

* *Intrusio* is a Person's thrusting himself into the Possession of something to which he hath no legal Right.

the Sons and Daughters of Kings, to embrace Heresy. *Simancas* gives the Reason: " Because such a one is to be left to the secular Judge without Mercy, as having added High Treason to Heresy, by endeavouring to destroy, with the most aggravated Crime, the Soul of the Prince, and thereby in Consequence of the whole Common-wealth. Kings also themselves may easily be perverted by Means of such Women; and if such are guilty of High Treason, who violate their Chastity, much more those who cause their Souls to commit Adultery."

Cathol. Instit. tit. 47. §. 68, &c.

Tr. tr. fol. 417.

As to the Heirs of penitent Hereticks, there is a Decree of the Council of *Biterre*, determining what they are obliged to. *You ought to require a suitable Satisfaction from the Heirs of such, who having confessed and being reconciled, have died without Penance, that so great a Crime, publickly confessed in Judgment, may not go unpunished in any. Let the same be done to those who having received Penance, have died without performing it, or delay'd to do it, or who have obliged themselves to fulfil it, under Forfeiture of their Effects, or who have been commanded to transport themselves.* Alexander IV. in his Consultations agrees with this, saying, *Moreover, some, as you add, have bound themselves to the Inquisitors, under Forfeiture of all their Effects, to receive Penance from them, and fulfil it for their heretical Offences, who, after being enjoined it, have died without performing it, or rather having neglected it wholly, or in part. 'Tis therefore asked, Whether the Inquisitors themselves, or those who succeed them, may force the Heirs or the Possessors of the Goods of such deceased Persons, to make Satisfaction for them? To which we answer, That if by such Penance, any Obligation profitable to Salvation, shall have been laid, for which the temporal Effects are to be answerable, the Inquisitors may force the Heirs to fulfil it, or such other Persons to whom the Effects may come under such Obligation.* But they can by no Means be forced to undergo those personal Punishments that Hereticks themselves must suffer if they return. Hence *Guido Fulcodius*, in his Consultations, answers, *That he believes such as are absolved by the Inquisitors, and die before they have performed their Penance, are reserved for Purgatory, and that nothing farther is to be laid upon their Heirs.* Alexander IV. also answers: *There are others also who have confessed in Judgment their Heresy, before the Inquisitors of heretical Pravity, and died before they have been enjoined Penance. We answer, That inasmuch as they did not die Hereticks, but rather incorporated into the Unity of the Church, we do not see that Satisfaction for a Crime extinct is to be required from them after Death, or from their Heirs who succeed to their Estate. But in the Case where Heirs are not admitted to inherit for the Fault of their Predecessors, if Death should happen between the Sentence declared, and the Confiscation of their Effects, such Confiscation must take place after Death, notwithstanding it did not whilst the Criminals lived.*

Cap. 28. 2.

Zanchinus explains these Things more distinctly and briefly. " A threefold Punishment descends to the Children of a Person condemned as an Heretick. The first is the Forfeiture of Effects, because they are absolutely deprived of paternal Succession. The second is, their Incapacity to succeed any of their Relations, or other Persons whatsoever, either by Will or without one. The third, their Inability to enjoy any Ecclesiastical Bene-

" fice,

" fice, or even publick Office. As to other Punishments inflicted on Here- Cap. 28. 3.
" ticks, their Children are exempted from them. As to the Children of such who return, and are received to Mercy, though once Hereticks, and theirs who have been suspected, but died with Purgation enjoined them, or not, these Punishments are not to be inflicted on them. The third Punishment only is to be laid on the Children of Persons suspected of Heresy, because of their favouring, defending and receiving it, if their Parents die such. But if they die after being received to Mercy, and Penance enjoin'd them, even this Punishment doth not pass to their Children, whether they have accomplished their Penance or not.

" As to the penitential Punishments, some are of such a Nature, as that they may be fulfilled by others; particularly pecuniary ones; such as the building a Church or Hospital, the giving Portions to poor Girls, the paying a Fine, the returning of Usury. If any one dies before the Accomplishment of such Penance, his Children and Heirs are obliged to fulfil it. Others are personal, such as to pray, fast, hear Divinity, to hear Mass every Day, to abjure their Error, and be confessed every Week. These cannot pass to the Children or Heirs, but are reserved for Purgatory."

Pegna agrees with this Account. " The Heirs of suspected Persons, Favourers of Hereticks, *&c.* cannot be compelled to perform the personal Penance enjoined a suspected Person, but not accomplished by him. But they may be compelled to accomplish the Penance enjoined him when living out of his Effects. If therefore it was enjoined him to build a Church or Hospital, to return Usury, and the like, and his Estate was bound to accomplish this Penance, to whatsoever Successor or particular Person such Estate shall devolve after his Death, it must come to him under such Obligation." The same is provided for also by the Council of *Biterre*. *Let the same take place with respect to those, who die without fulfilling the Penance enjoined them, if they have delayed it, or bound their Estate for Performance of it.*

Direct. Inquis. p. 3. Q. 120. com. 169.

Cap. Accusatus §. si vero. de hæret. l. 6.

Cap. 19.

CHAP. VI.

Of Arch HERETICKS.

AMongst Hereticks there are some Arch Hereticks, such who have invented and broached Heresies, or taught them others when invented, and so become themselves the Masters of Error. These are usually called Dogmatists or Dogmatisers, and antiently perfect Hereticks. If such as these will be converted, the Council of *Biterre* hath thus determined concerning them. Cap. 16. *Let perfect Hereticks, or convicted ones, be secretly examined before certain discreet and faithful Men, persuading them, according to their Duty, to Conversion, and to such as are willing to turn approve themselves favourable and kind, because by*

Direct. part. 2. qu. 39, 40.

such

ſuch much Light will be ſpread, and great Advantage will accrue; and mitigate their Penances according to the Nature of their Converſion and Merit, or ſhew them Regard, as you ſhall think proper and convenient. Thus alſo the Council of *Tarracon: But let perfect Hereticks, and Dogmatiſers, if they will be converted, after Abſolution and Abjuration, be ſhut up in perpetual Impriſonment.* Hence in the Sentence of *Peter Auterius*, a Doctor of the *Albigenſes*, we read: *Saving however, and retaining, that if thou wilt turn from this Sect and Hereſy, and be converted, and return to the Eccleſiaſtical Unity, thy Life ſhall be ſaved: reſerving however to our ſelves full and free Power of enjoining thee a Puniſhment and wholeſome Penance for the Things thou haſt done in thy former Sect and Hereſy.*

Lib. Sent. Inquiſ. Tholoſ. fol. 40.

The Reaſons they aſſign, why they receive to Penance penitent Arch Hereticks, or Dogmatiſts, are theſe. Becauſe, if they are converted, and preach to thoſe they have deceived, they may eaſily convert many of them. Add to this, that as they beſt underſtand the Errors and Deceits of Deceivers, which they themſelves have taught, they can more eaſily refute them by Writing or Talking. And finally, becauſe Dogmatiſts, truly converted, and openly penitent, are as it were a clear Mirror of Repentance and Humility, into which Sinners may look and be converted, and be preſerved in their Duty. This is eſpecially to be obſerved, when an Arch Heretick is of great Authority, for his Doctrine and Dignity, and who therefore, it may be hoped, will convert many by his Authority. And thus *Berengarius* was heretofore received. However, the Doctors now think, that conſidering the moſt miſerable Condition of theſe Times, in which Hereticks dare every Thing that is impious, all Arch Hereticks are to be delivered over, without Mercy, to the ſecular Court, becauſe, as *Simancas* ſays, *They deſerve to die not one Death only, but many*; and therefore he is for puniſhing them *not as other Hereticks, but with ſeverer Puniſhments, without any Compaſſion.* He farther ſays, *That the Maſters of the* Lutheran *Hereſy are by no Means to be ſpared; as being tainted with many Vices and Crimes,* viz. *Enemies to the Church, Haters of the Saints, Violators of the divine Law, ſacrilegious Perſons, Corrupters of good Works, and therefore of all good Manners, and Subverters of Nations. And therefore* he adds, *they muſt not be forgiven, who commit ſuch wicked, abominable, and heinous Crimes.* Thus alſo, according to *Pegna*, "No Arch Heretick, though he ſhould give Proofs of a "real Converſion, ought to eſcape the Puniſhment of Death. But becauſe "the Church is kind and merciful, there is no Papal Law by which 'tis pro-"vided, that Dogmatiſts ſhall, without Diſtinction, be delivered over to the "ſecular Court. Yea, the contrary may be gathered from Cap. *ad abolendum.* "de hæret. But then eſpecially are Arch Hereticks to be received, when "they come, without any Inquiſition after them, or being cited or called by "Name, but of their own Accord, to confeſs their Sin, and implore Mercy. "But when they are received, he will have very heavy Penances enjoined "them, which ought not to be mitigated, but after a long Seaſon, and the "moſt evident Signs of true Repentance, Converſion and Humility.

tit. 47. §. 54. §. 71. §. 63.

CHAP.

CHAP. VII.

Of the Believers of HERETICKS *and of* SCHISMATICKS.

FUrthermore, there are ſome who are Believers, others who are Receivers, ſome Defenders, and others Favourers of Hereticks. The Believers of Hereticks are, ſome of them, they who believe their Errors and Hereſies. Such are excommunicate. Others are judged to believe the Errors of Hereticks, from their Words or Actions. By their Words, *viz.* by their own Confeſſion, when they ſay they believe ſuch an one's Errors. Or by the Evidence of the Fact, *viz.* by publickly preaching or defending their Errors. Or by legally producing Witneſſes, by whom they are convicted of divulging ſuch Errors. As to Facts: In the Beginning of the delegated Inquiſition, it was much doubted by what Facts any Perſons could be judged to be Believers of Hereticks. But the Council of *Narbonne* hath determined it. Cap. 29. *Amongſt thoſe Faults by which they may be judged to be Believers of Hereticks, theſe, to prevent your farther Doubt, we firmly think to be ſuch,* viz. *if they have done Reverence to Hereticks, or, as believing them, have implored their Prayers, declared them to be good Men, and have thus as it were adored them. If without any Deſign to betray or ſeize them, or any other excuſable and commendable Cauſe, they have been preſent at their Conſolation, when they falſely and deceitfully pretend, that they ſave him by the Impoſition of Hands, whom they comfort, though hereby they make him an Heretick. Or at their Service, when they imagine that their Principal, holding an open Book in his Hand, gives them Remiſſion of their Sins, as in a general Confeſſion. Or at the Supper of the* Valdenſes, *when, on the Day of the Supper, the Table is ſet, and the Bread placed on it, and he believes, according to their damnable Sect, that when one of the* Valdenſes *bleſſes it, and breaks it, and gives it to thoſe preſent, he makes the Body of Chriſt. If they confeſs their Sins to the ſaid* Valdenſes, *as a Perſon uſes, and ought to confeſs to his proper Prieſt. If they knowingly and damnably receive from Hereticks or the* Valdenſes *Peace, or Bread bleſſed by them, ſent or given them by any one whatſoever. If they have believed that they may be ſaved in their Sect, or that they are good and holy Men, or the Friends or Meſſengers of God, or of good Converſation and Life. Or that their Perſecutors ſin. Or if they have ſo far praiſed them, or by any other Sign or Word have profeſſed that they give them Credit or Belief, in a Caſe of Law or otherwiſe. If they have willingly and oftentimes received them, heard them, viſited them, gave them, or ſent to them Proviſion or other Things; or have learnt Prayers, Epiſtles or Goſpels from them. Theſe Things and the like, although they will not prove ſingly, yet will be of great Service; eſpecially as St.* John *hath ſaid in his Epiſtle,* If any one comes to you, and brings not this Doctrine, receive him not into your Houſe, nor bid him God ſpeed; for he who bids him God ſpeed, partakes of his evil Works. *But we would have all theſe Things to be ſo underſtood, as to intend that ſuch who ſhall be found thus culpable, did know the Perſons by whom theſe Things were done to be Hereticks and* Valdenſes; *and that holy Church doth declare them ſeparated from the Unity*

Direct. p. 2. q. 50.

of the Catholick Faith for their own Errors, and their damnable Sects, and doth excommunicate, persecute, and damn them. Nor is he lightly to be believed, who says he was ignorant of it.

Qu. 34. By this Decree any Facts are made Signs, by which a Person may be judged to be a Believer of Hereticks. But because no Inference can be made concerning any Man's Faith with equal Certainty and Strength from every one of these Facts, the Popish Doctors make use of a Distinction. For, say they, there are some Facts in which the Error is manifestly expressed, which cannot by any Means be taken in a good Meaning; *viz.* to do Reverence to them according to their Custom, and to receive the Communion from them after their Manner. These Things demonstrate a Person to be an Heretick, and he may be proceeded against as such. For they say the Plea can hardly be allowed, that he did these Things for the sake of some temporal Profit, and not out of any real Error of Mind. There are other Things which occasion violent Suspicions: As when any one defamed for, or suspected of Heresy, seeks Consolation from Hereticks, according to their Manner at the Time of Death. If any one doth this, the Law presumes him an Heretick, and against this Presumption no Proof can be regularly admitted. Other Things there are, in which there is no Appearance of any heretical Rite, such as to visit Hereticks, give them Food, accompany them, defend their Persons, and the like. These Things demonstrate no Man to be an Heretick, but only render him suspected of Heresy.

Amongst others Signs by which the *Valdenses* may be known, is the Refusal of an Oath, when they are compelled to it by the Inquisitors; because they hold every Oath in every Case to be unlawful. Thus we read, *If any of them, thro' a damnable Obstinacy, refuse the Solemnity of an Oath, and will not sware, from this alone they are to be accounted Hereticks.*

Cap. Excom. itaq; Extra de hæret. §. *Adjicimus.*

There are other Believers of Hereticks, concerning whom 'tis not evident that they believe their Errors, but who appear to believe the Words, Commands, and Works of Hereticks. Such are they who commit those Facts in which there is no Appearance of any infidel Rite; who go and come at their Command, hear, tho' seldom, their Sermons, carry their Letters here and there, wait on them, receive their Books without burning them, carry them Provision, afford them safe Conduct, visit them, and do other Things in which there is nothing of any heretical Custom.

Such are neither looked on nor treated as Hereticks, though they bring themselves under Suspicion greater or less, in Proportion, as the Appearances are greater or less. Wherefore they deal with them as with suspected Persons, of whom afterwards. 'Tis here enquired, whether a Person, who hath heard the Sermons of Hereticks, once or twice, ought to be accounted for a Believer of Hereticks. The common Opinion is, that he ought not to be accounted such for once or twice hearing the Sermons of Hereticks, unless he hath done it oftener. However, they distinguish. If any Catholick, living in the Country of Hereticks, goes once or twice to their Sermons, he is not to be judged to be a Believer of them. But if in Catholick Countries he knows

that

that Hereticks hold private Conventicles, if he goes to them but once, he will incur the Suſpicion of believing them, unleſs he diſcovers it to the Biſhop or Inquiſitor. Becauſe in this latter Caſe he is judged to approve what he might have prevented, if he had made a Diſcovery to the Eccleſiaſtical Judges, as he ought to have done.

Schiſmaticks have a very near Agreement with Hereticks, and they are thus diſtinguiſhed by *Simancas*.

" Schiſmaticks are either conſummate Hereticks, or near akin to Here- *tit.* 58.
" ticks, *viz.* who only depart from the Unity of the Church, and the Obe- §. 4, 5.
" dience of the chief Pontiff. Theſe differ but little from Hereticks. For " they believe that there may be Salvation and true Sacraments without the " true Church, and many other ſchiſmatical Things. Theſe are to be pu- " niſhed with almoſt the ſame Puniſhments as Hereticks themſelves.

" Others are without Blame, and have a juſt Excuſe; *viz.* they who, thro' §. 9.
" probable or inſuperable Ignorance, believe a Perſon to be Pope who is not " rightly elected; which ſometimes happens upon a doubtful Election, when " two or more contend for the Pontificate. One of theſe may, with a good " Faith, be owned for true Pope, though not juſtly elected." After *Simancas* hath thus explained the Matter, he pronounces a cruel Sentence againſt the modern Hereticks, *i. e.* againſt all in this Age, who live without the Communion of the Church of *Rome*, in *Germany*, *France*, the *Netherlands*, and ſome other Northern Countries.

" The modern Hereticks are not united. There are many Schiſms amongſt §. 12.
" them, ſo that in one Houſe you may find ſeveral Beliefs, the Huſband, " Wife, Children, and Family, all believing differently.

" Againſt theſe impious Fanaticks, who endeavour to defile all divine
" Things, the Laws riſe up with revenging Fire. Theſe peſtiferous Here- §. 14.
" ticks are driven out of *Spain*, who rejecting all that antient Diſcipline, " which the holy Spirit taught, which ſo many Ages, the Conſent of ſo ma- " ny Nations, ſo many great Men, famous for their Piety and Learning, have " delivered down to us, inſtead of retaining the true Method of governing " the Chriſtian Commonwealth, throw all Things into Diſorder, and more " than *Babyloniſh* Confuſion."

The Puniſhments of Schiſmaticks are Privation of Eccleſiaſtical Power, Carena,
Excommunication, Incapacity for all Offices for the future, and finally Death. *p.* 2. *t.* 3.
And the Doctors obſerve, that when Schiſmaticks are impenitent, the ſecular §. 12.
Judges may in ſuch Caſe puniſh them, if Clergymen, without degrading them.
They add, that all Lords and Magiſtrates, as well Eccleſiaſtical as Secular, *n.* 49.
who fall into or raiſe Schiſm, ought to be puniſhed likewiſe with Death; according to the Bull of *Paul* IV. beginning, *Cum ex Apoſtolatus officio*, in which the Pope commands that all ſuch Schiſmaticks ſhall be puniſhed, even for the firſt Offence, as the very Relapſed themſelves. But if they repent, the In- §. 13.
quiſitors, after a formal Abjuration of their Schiſm, and their Suſpicion of Hereſy, according to the Degrees of it, uſually puniſh them with other Pu-

nishments at Pleasure; either by Fines, Banishment, Imprisonment, Confinement, Gallies, and Death, according to the Nature and Aggravation of their Fault.

CHAP. VIII.

Of the Receivers and Defenders of HERETICKS.

Direct. part. 2. qu. 51. THE Council of *Tarracon* hath determined those to be Receivers of Hereticks, who have twice, or more, knowingly received Hereticks in their House, or any other Place. A Receptacle is an House or Lodging, where Hereticks have met together twice or more to preach or read, or where they have frequently lodged. But such offend more grievously who know their Errors, and that the Church doth persecute them, and nevertheless receive and conceal them from the Hands of the Church, even though they have done this but once; and by this Reception they render themselves suspect of Heresy, more or less, according to the Difference of Circumstances. And therefore, as suspected Persons, they are obliged to abjure. Their Punishment is Excommunication, and if after this they persist in their Crime, they are put under the Bann, banished for ever, and suffer Confiscation of all their Goods. But if any one receives an heretical Relation, his Crime is less, and he is more gently punished. And in this they consider the Degrees of Kindred, that such who are nearest akin to the received Heretick, may be more gently dealt with than those who are farther off.

Qu. 52. The Defenders of Hereticks, according to the Definition of the Council of *Tarracon*, are such who knowingly defend Hereticks by Word or Deed, or any Method in their own Lands, or any where else, whereby the Church is prevented from executing its Office in the Extirpation of heretical Pravity. Now there are different Ways of defending. An Heretick may be defended with Arms, or without them, or by giving him Notice for his Escape. He may also be defended, when under Trial, or when he is not. They may also be said to be Defenders of Hereticks by Consequence, who hinder in any Manner the Office of the Inquisition. Besides this, there is another Case by which a Man may be said to be a Defender of Hereticks, when he puts another Person or himself in the Room of the Heretick to be apprehended. Concerning which, *Innocent* IV. sent this Rescript. Ad extirpanda. *If at any Time, any Men or Women not Hereticks, shall, with their Consent, be taken and put in the Place of Hereticks, or themselves personate Hereticks, let them suffer perpetual Imprisonment, and at the same time let the Hereticks themselves be compelled to return and deliver up themselves. And as for those who contrived the Deceit, let them, according to the aforesaid Law, suffer Confiscation of their Goods, and perpetual Banishment.* In the same Bull there are other Sorts of Punishments ap-

pointed against the Defenders of Hereticks. *Whosoever shall dare to rescue an heretical Man or Woman, when taken, from him or those who have apprehended them, or to prevent their being taken, or to hinder any one's Entrance into any House or Tower, in order to seize or search for them, let such an one, according to the* Padua *Law of* Frederick *the Emperor, suffer Confiscation of Goods, and perpetual Banishment, and let the House from which they were excluded be rased to the Ground, and never rebuilt; and let the Effects found there be his who can seize them, as if Hereticks had been actually found there.* Moreover, he makes their Sons infamous, and excludes them from all Honours, unless they discover Hereticks. But if they discover them, they are delivered from these Penalties. *Pius* V. also by a certain Rescript, beginning, *Si de protegendis*, ordained the most severe Punishments against the Defenders of Hereticks, which they incur in many Cases therein mentioned.

CHAP. IX.

Of the Favourers of HERETICKS.

THE Favourers of Hereticks, as the Name shews, are those who shew Favour to Hereticks, and are in all Things equal to the Defenders of them. They are either Magistrates or private Persons, and they may all favour Hereticks by Omission or Negligence, by Deed or Assistance, and finally by Counsel or Words. The Magistrates Office is to extirpate Hereticks, and expel them from his Kingdoms and Dominions, and to give all Counsel and Favour to the Inquisitors of heretical Pravity, for the punishing and restraining of Hereticks, and the Suppression of all rising Heresies, because the Inquisitors without the Magistrates Help are weak, and cannot drive away Hereticks; and therefore they must bend all their Endeavours to this, that the Wickedness of Hereticks may not encrease under their Government, and the Security and Religion of the Catholicks be not diminished or disturbed. The Favourers therefore of Hereticks are such: First, who omit to do those Things concerning Hereticks, or Persons suspected and defamed for Heresy, or those who believe, receive, defend, and favour them, which they are obliged to do by Office, when required to do it by the Inquisitors or Bishops, or one of them, *viz.* if they do not take them up, keep them in safe Custody, send them to the appointed Place, or if they don't readily punish them, when condemned and delivered over to them. For they are obliged to all these Things. Cap. *Ut Inquisitionis*, de hæret. lib. 6. and especially by a Rescript of *Innocent* IV. and *Clement*. IV. beginning, *Ad extirpanda*. In like Manner the Prelates or Inquisitors, who neglect to make safe Prisons, to set over them faithful Keepers, to apprehend, torture, or punish Hereticks, or to keep them in safe Custody, in order to favour Hereticks, are judged to be themselves Favourers

Q. 53.

Souza, *lib.* 1. c. 25. §. 4.

vourers

vourers of them; but not if these Omissions proceed from Negligence, or any other Cause. Secondly, the Magistrate is a Favourer of Hereticks by Commission. If, when taken, he delivers them from Jayl without the Leave or Command of the Bishop and Inquisitor, or one of them; or if he doth directly or indirectly hinder their Process, Judgment, or Sentence, or do other Things like them. As appears from the Chapter before mentioned, *Ut Inquisitionis.* §. *prohibemus.* All these are *ipso jure*, excommunicated, as Favourers of Hereticks; and if they obstinately remain under this Excommunication for the Space of a Year, are to be punished as Hereticks. The Council of *Tholouse* hath appointed other Punishments for them. Chap. 3, 4. *We likewise ordain, that whosoever shall knowingly permit any Heretick to dwell in his Jurisdiction, either for Money, or any other Cause whatsoever, and shall confess, or be convicted of this, he shall lose his Estate for ever, and his Body shall be in the Power of his Lord, to do with it as he ought to do. And if he be not convicted of having done this knowingly, and his Negligence be not proved to be scandalous, and yet Hereticks are frequently found in his Country; or if he be defamed upon this Account, let him suffer the legal Punishments.* See also the Bull of *Paul* IV. beginning, *Cum ex Apostolatus officio. Bzovius* also relates, in his Account of the Year 1215. §. 10. that by the Command of the Apostolical Legate the Walls of *Narbonne* were thrown down; and also of *Tholouse*, the greatest Part of them, because they had been the Receptacles of Hereticks. The same Council of *Tholouse* determines what shall be the Punishment of inferior Magistrates, in their several Districts, if they are found negligent in apprehending Hereticks. Cap. 6. *As to the Ballive of any Place as to which there is any Presumption, who is always Resident, unless he be found very diligent and careful against Hereticks, let him forfeit all his Effects, and never more be suffered to be a Ballive there, or any where else.*

Private Persons are said to be Favourers of Hereticks, when out of their own Rashness they free from Prison Hereticks, or Persons apprehended for Heresy, or give any Assistance, Council or Favour towards their Deliverance, or so accompany them, when freed, as not to seize them; or resist those who would apprehend them, or presume directly or indirectly to hinder Process, Judgment, or Sentence, in a Cause of Faith, or give Council, Assistance or Favour to such Hindrance. Private Persons indeed are not said to be Favourers of Hereticks by mere Omission, *viz.* for not apprehending or not taking them into Custody, as not being obliged to it. Nevertheless they will be Favourers, if they shall omit to discover and apprehend them, when obliged to it by Office: Such, for Instance, are the Cross-bearers, who in *Spain* are called *Familiars*; or if when called on by the Magistrate, to assist in apprehending Hereticks, they refuse to do it without Reason, and when they have nothing to prevent them.

Lastly, both Magistrates and private Persons may be said to be Favourers of Hereticks, by omitting to discover them, because all Persons are obliged under Pain of Excommunication, to discover all Hereticks, even concealed ones, to the Bishops and Inquisitors, and, if it be necessary, to accuse them.

So

So *Gregory* IX. ordained in one of his Extravagants againſt the *Patarenes*, beginning, *Excommunicamus*, inſerted amongſt the Apoſtolical Letters for the Office of the Inquiſition. *Likewiſe if any Perſon knows any Hereticks, or ſuch who hold private Conventicles, or who differ in their Life and Manners from the Converſation of the Faithful, let him endeavour to diſcover them to his Confeſſor, or ſome one elſe, who he believes may give Notice to the Prelate, otherwiſe let him be excommunicated.* And this Obligation of informing againſt Hereticks is ſo ſtrict, that it takes place notwithſtanding any Oath, Covenant, or Promiſe to the contrary. But if the Wife only ſhould happen to know that her Husband eats Fleſh on forbidden Days, and knows him to be ſo furious, as that probably he would murther or abuſe her, if ſhe informed againſt him, ſome think her Fear may excuſe her from the Suſpicion of Hereſy. But we ſhall ſpeak more fully of the Obligation to inform in the following Book.

The Council of *Narbonne* hath determined the ſeveral Ways, by which any one may be ſaid to be a Favourer of Hereticks. Cap. 14, 15, 16. *We account thoſe equally Favourers of Hereticks, who obſtruct the Extirpation or Correction of Hereticks or their Believers, and thoſe who don't give that Aſſiſtance to it, which they can't omit without a manifeſt Fault. But ſuch Perſons may be more or leſs guilty in theſe Matters, from a careful Conſideration of Circumſtances. He, for Inſtance, greatly favours Hereticks or their Believers who conceals them, when he may, and ought to diſcover them. He favours them more, who by concealing them, or otherwiſe maliciouſly endeavours to prevent their Examination or Impriſonment, or Puniſhment. He moſt of all, who releaſes thoſe who are apprehended or impriſoned, without the Churches Leave; or if ſuch Things are done by his Counſel, Help, Command or Care. But he is above all others to be accounted guilty of this Crime, who having temporal Juriſdiction, defers to perſecute theſe aforeſaid peſtiferous Hereticks, or Perſons declared to be Rebels againſt the Church, or to extirminate them out of his Country or Province, or to animadvert againſt them without Delay. Such a one is juſtly to be ſuſpected of being joined in wicked Society with them, who neglects to put a Stop to ſo great a Wickedneſs, after having received the proper Information by the Church or otherwiſe; ſince he both may do it, and is bound to it; eſpecially if he is under the Obligation of an Oath to do it. But neither are they free from this Crime, who, when they have the Opportunity of Time and Place, and Leave to apprehend Hereticks, or the aforeſaid Rebels, and to aſſiſt thoſe who are to take them up, wickedly neglect it; eſpecially if required by thoſe who apprehend them, or are willing to do it. And ſince there are many, and almoſt unſearchable Methods of doing Harm, by which Hereticks, their Believers and Favourers endeavour to deſtroy the Vineyard of the Lord of Sabaoth, which ought to be prudently and vigorouſly oppoſed, let your Piety take Care, according to the Grace given you of the Lord, to find out theſe Evils, and apply the wholeſome Remedy; and let your Prudence make up what can't ſo eaſily be committed to Writing.*

Laſtly, Friar *Ivonetus* deſcribes the Marks and Signs, by which Perſons may be known to be Favourers of Hereticks. There is extant a Volume of his, the Fragment of which is in a Parchment Book of the *Vatican* Library, intitled, *How the Favourers of Hereticks may be diſcovered.* And he there reckons up five

five Signs in these Words. *The Favourers of Hereticks may easily be known by these five very probable Marks. First, Whoever privately visit them, whilst in Custody, and whisper with them, and gives them Victuals, are suspected of being their Disciples and Favourers. Secondly, Whoever greatly lament their Apprehension or Death, seem to have been their spiritual Friends whilst they lived; for 'tis scarce credible that any Person can be a long while intimate with an Heretick, and not know his Secrets. Thirdly, Such who complain that they are unjustly condemned, after they have been openly convicted, or have confessed their Heresy, it appears that they approve their Sect, and think the Church hath erred in condemning them. Fourthly, Such who look with a bitter Countenance upon those who persecute Hereticks, or preach vigorously against Heresy; for he who diligently observes, may see by their Eyes and Nose, and Aspect, that they do not look with a favourable Countenance, and are therefore greatly to be suspected, that they hate those against whom their Heart appears to be so bitter, as their Countenance betrays, and love those for whose Destruction they so much grieve. Fifthly, If any are found to have by Stealth gathered together in the Night the Bones of Hereticks burnt, as Reliques, 'tis not to be doubted but that they reverence them as Saints, whose Bones they lay up as a kind of Sanctuary, and are therefore equally Hereticks with them. Because no one accounts an Heretick for a Saint, but he who believes his Sect to be holy, and is equally an Heretick with him. These Things give great Presumption of Heresy against him, altho' it be not sufficient Proof to condemn him, unless there concur other Arguments, by which it manifestly appears they did the aforesaid Things in Favour of Heresy.*

C. *Excommunicamus. §. Credentes. Ibid. de haret.*

The Favourers of Heresy are *ipso jure*, excommunicated. If they are mere Favourers, but not publickly excommunicated, they don't incur any other Penalties. But if they are publickly declared excommunicate, and don't give Satisfaction within a Year, they suffer other Penalties, which are largely described.

CHAP. X.

Of the Hinderers of the Office of the INQUISITION.

THE Hinderers of the Office of the Inquisition come nearest to the Favourers of Hereticks, and are usually reckoned amongst them.

That this Office may be vigorously exercised, and that no Hereticks may escape the Rigour of it, all are strictly commanded, of whatsoever Dignity or Condition, especially Arch Bishops, Bishops, and other Prelates, to favour the Business of the Inquisition, and yield all Countenance and Help to the Inquisitors. Thus *Alexander* IV. in his Bull, beginning, *Orthodoxæ fidei Christianæ*, commands all Arch Bishops, Bishops, and other Prelates. *Since therefore there are certain Predicant Friars appointed by the Apostolick See, Inquisitors against Hereticks in the aforesaid Provinces, that they may carry on the Business of the*

f. 420. tr. tr.

Faith

Faith, with a fervent Mind, and constant Heart, through many Tribulations and Persecutions, we admonish and exhort all of you in our Lord Jesus Christ, strictly commanding you by these Apostolical Writings, in Virtue of your Obedience, and enjoining you, that you favourably assist these Inquisitors in carrying on the said Affair; and that laying aside the Fear of Man, you effectually give them your Counsel and Help: Knowing, that those who hitherto have done, and shall do these Things, shall always obtain the special Favour of the Apostolick See, and find us favourable and kind in all their Occasions. But as for those whom we shall know to be Contemners, besides the divine Judgment that hangs over them, they shall not escape the Ecclesiastical Vengeance.

The same Pope, in the Bull beginning, *Ne commissum vobis*, says, That if the Clergy and Religious shall not assist the Inquisitors, according to their Duty and Ability, they shall be proceeded against according to the Canonical Sanctions, notwithstanding any Privileges. And in the *Decretals* V. in the Chapter *Excommunicamus*, at the End, the Bishops are commanded, under the Penalty of Deposition, to perform all these Things.

But *Innocent* IV. in his Bull to the Provincial of *Lombardy*, beginning, *Tunc potissime*, hath threatned with all imaginable Curses, and the most terrible Destruction, Magistrates, unless they promote the Affair of the Inquisition, and much more if they presume by any Means to hinder it. *Inasmuch as we desire above all Things to promote this wholesome Affair, we intend, with the Help of God, wholly to remove all manner of Obstructions from it. And therefore if it should so happen, which however we do not believe, that any City or Community, any Princes or Nobles, or others in Power, shall presume to oppose this Business, or by any Means to obstruct it, so that those who are deputed by us for this Affair cannot freely proceed therein; yea, unless they cherish it, and studiously assist it, we shall severely reach forth against them the Sword of the Ecclesiastical Power, to suppress so audacious and pernicious Insolence, and wholly to confound it; and we will call in against them the Kings and Princes, and other Faithful of Christ, who have taken on them the Sign of the Cross, whether for the Succour of the holy Land, or otherwise for Christ's Service, as also the rest of the Catholicks, that Heaven and Earth may be moved up together against this detestable Rashness; since 'tis no less expedient, but rather more so to defend the Faith in Places near us, than in those which are farther distant.* The same Things are almost to a Word extant in the Bull of *Urban* IV. beginning, *Licet ex omnibus mundi partibus.* Published *An.* 1262. *April* 19th.

Bzovius, *a.* 1252. §. 4.

Persons are said to hinder the Office of the Inquisition, either directly or indirectly. Directly, such who deliver from Prison by their own Rashness Persons taken up for the Crime of Heresy, or who destroy the Processes of the Inquisition, or who wound the Witnesses in a Cause of Faith for their Testimony. Or if a temporal Lord ordains, that no one ought to take Cognizance of the Crime of Heresy but himself, and that no one shall be accused, or give Testimony but before himself. As also all such, who use only Threatnings and terrifying Words; and who directly hinder Process, Judgment, and Sentence in a Cause of Faith, or give Counsel, Help and Favour in doing thus.

Direct. Inq. p. 2. *qu.* 54.

Carena, *p.* 2. *t.* 4. *n.* 23.

They are ſaid indirectly to obſtruct, who uſe any Inſinuation or other Means, from whence conſequentially any Impediment may ariſe to the Office of the Inquiſition. Such for Example, who order that no one ſhall bear Arms, unleſs of the Houſhold of the temporal Lord, and that no one ſhall apprehend, or cauſe to be apprehended any Perſon, but the temporal Lord. For from thence it follows, that thoſe who belong to the Inquiſitors can't wear Arms, nor take up any Perſon. Theſe are leſs criminal than the former; but are all excommunicated; and if they lie under that Excommunication for a whole Year, they muſt, in order to their Reconciliation, abjure ſuch Impediment and Favouring, otherwiſe they are delivered over as impenitent Hereticks to the ſecular Arm.

The Power of proceeding againſt ſuch Perſons, was given to the Inquiſitors by *Urban* IV. and other Popes, in a Reſcript to the Inquiſitors of heretical Pravity, beginning, *Præ cunctis*, where, amongſt other Things, there are theſe. *But if, what we do not believe, there ſhould happen to be any, of what Condition ſoever, who ſhall oppoſe this Affair committed to you, or ſhall preſume in any wiſe to obſtruct it, ſo that you cannot freely proceed in it; yea, unleſs, when required, they ſhall ſupport it, and, according to their Office and Ability, give it their Aſſiſtance; proceed without Fear, in Dependance upon the ſaid Authority, according to the Canonical Sanctions, againſt ſuch Perſons as againſt Favourers and Defenders of Hereticks.* See alſo Chapter *Ut Inquiſitionis.* §. *Prohibemus.* lib. 6.

Nor are there wanting Examples of an Inquiſition actually made, not only againſt private Perſons, but alſo againſt Magiſtrates, yea, whole Cities and Communities, on the Account of their hindring the Inquiſition. *Bzovius* relates a memorable Inſtance, which happened in the Territory of *Parma*, about the Year 1285. from a Letter of *Honorius* IV. brought to the Biſhop of *Parma*, in which there are theſe Things. “ Friar *Florius* a Predicant, Inquiſitor of heretical Pravity in the Parts of *Lombardy*, deputed “ by the Apoſtolick See, condemned a certain Woman, relapſed into Hereſy, after Abjuration, who being delivered to the ſecular Court, was burnt. “ But ſome Perſons, who were met together in the Place where the ſaid “ Woman was burnt, and a great Number of others, who flocked from the “ different Parts of the City, ran in a violent Manner to the Place of the “ Friars of the ſaid Order, and forcibly enter'd the ſaid Place, and broke “ open the Church Doors, deſtroyed the Houſes with Stones, and preſumed “ to enter by Violence the little Chapels of the ſaid Place, and unjuſtly plundered the ſaid Friars of their Books, Garments and Effects, and beat and “ wounded ſeveral of them, one of whom, after a few Days, died of the “ Wounds he had received; ſo that the Friars were forced to leave the Place.

“ And becauſe the Governor and Magiſtrate neglected to proceed to the “ Puniſhment of that Crime, according to their Office, they were cited by “ the Biſhop of *Oſtia* perſonally to appear before him at a certain Place and “ Time. They appeared; but becauſe there was no proper Syndick for “ the aforeſaid Community, who appeared before him, according to the

“ Form

" Form of the ſaid Citation, he publiſhed the Sentence of Excommunica-
" tion againſt them, and put the City under an Interdict. After this the Go-
" vernor and Magiſtrate deſired that the Sentence of Excommunication and
" Interdict ſhould be taken off, and promiſed that they would obey the Plea-
" ſure of the Church; and that they would give ſufficient Security upon
" Oath, and Sureties, to ſtand to the Law for all the aforeſaid Enormities,
" Offences and Injuries. This Security was accepted, and upon the Ap-
" pearance of the proper Sureties for the aforeſaid Community, each Perſon
" being bound in a thouſand Marks of Silver, that they ſhould obey the
" Commands of the Church, the Sentence was remitted, and they themſelves
" ſummoned to appear within the Space of one Month before Pope *Martin* IV.
" by themſelves, or their Syndicks, or their Procurators, ſufficiently inſtructed
" for this Purpoſe, in order to obey the Pope's Command for theſe Exceſſes,
" and to receive what in Juſtice was to be exacted of them. They appeared
" within the ſaid Term before the Pope, but there was no farther Proceſs
" made upon the ſaid Affair. So that *Honorius* IV. commanded the Biſhop
" of *Parma* to cite them again before him, to obey his Orders, and to re-
" ceive what in Reaſon ſhould be appointed them. What was the Event of
" this Proceſs, and what was the Puniſhment inflicted upon the Magiſtrate,
" *Bzovius* doth not relate."

We have another Inſtance in the Book of the Sentences of the *Tholouſe* Inquiſition. Certain Perſons were thrown into the Priſon of the Inquiſition at *Cordes*, in the Territories of *Tholouſe*. The Magiſtrate and People roſe up againſt the Biſhop of *Viviers*, and the Inquiſitors, and by ſeveral Methods obſtructed the Office of the Inquiſition. The Sentence of Excommunication was pronounced againſt them. At length the Magiſtrates and principal Perſons threw themſelves in a very humble Manner before the Inquiſitors at a general Sermon of the Faith, ſubmiſſively confeſſing their Fault, and begging Pardon for their Offence. They ſubmitted themſelves purely and entirely to the Will and Order of the Inquiſitors, declaring that they were ready to make Satisfaction, and to receive and do Penance, ſuch as they ſhould think fit to enjoin them. They pray to be abſolved from the Sentences of Excommunication, and promiſe that they would be devoted, and perſevere in their Devotion and Reverence and Obedience to the Inquiſitors, their Succeſſors, and the Office of the Inquiſition all the Days of their Life. This ſo humble a Supplication, moved the Minds of the Inquiſitors to Mercy, ſo that tho' the Magiſtrates and People had grievouſly offended againſt the Biſhop of *Viviers*, the Inquiſitors and their Office, and were therefore worthy of the ſevereſt Puniſhments, yet in Conſideration of their Humiliation and Supplication, they abſolve them from the Sentences of Excommunication; but under this Penance, that they ſhall build a Chapel in their City, with Ornaments, and all other Requiſites, to perform divine Service, and ſhould farther erect three Images over the Door of the Chapel, one of the Biſhop of *Viviers*, and the other two of two Inquiſitors. And finally, they reſerve to themſelves the Diſpoſal of certain particular Perſons of the ſaid Community, to the Number of ſix or

Fol. 138.

H 2 eight,

eight, whom they would call by Name that Day or the following, whom, as the principal Offenders, they would enjoin wholesome Penance; and they oblige the whole University, and every Person thereof, that they and every one of them shall satisfy the Bishop and Church of *Viviers*, as also the Office of the Inquisition and the Inquisitors, and all Persons belonging to them, and pay the Expences they have been at upon account of the said Affair.

In the same Book of Sentences there are two other Instances of Inquisition made against private Persons for hindring the Office of the Inquisition.

The first is that of Friar *Bernard Deliciosi*, who was accused, that, as the principal Director, he had prosecuted the Complaints of the Cities of *Carcasson*, *Viviers*, and *Cordes*, having procured for this Purpose a large Sum of Money from the said Places, and by the Sale of his Books, and by Borrowing; that he had spoken very freely of the Processes and Sentences of the Inquisitors published against certain Persons for Heresy, in the most publick Conversations and elsewhere, even in the secular Courts; that he had justified Persons apprehended and condemned for Heresy, and said, That *though they were true Catholicks, they were forced by the Violence of their Tortures to confess themselves and others guilty of Heresy, and that they were unjustly condemned*; and hereby excited the Magistrates and People to oppose the Bishop and Inquisitors: That he also publickly asserted at *Tholouse*, *That St.* Peter *and St.* Paul *could not defend themselves from Heresy if they were alive, and had Inquisition made against them in the Manner practised by the Inquisitors*, and that he thus informed the King of *France* against the said Inquisitors: That he falsely ascribed to the Inquisitors an Instrument drawn up against the City of *Carcassone* upon the Affair of Heresy, and made this an Argument of exciting the People, that they might see what these Predicants would be able to do against particular Persons, who could make so false and pernicious an Instrument against a whole Community: That by this Means he hindred the Office of the Inquisition, raised a Sedition and Rebellion, and did many other Things, by which the Exercise of the Office of the Inquisition was obstructed: That moreover, after having taken the Advice of many Persons, at several Times, and in different Places, he had been deputed by the Magistrates of *Carcassone*, to the Lord *Ferrand de Majoricis*, and had offered to him the Borough of *Carcassone* in these Words. "My Lord, you may know that the Magistrates of *Carcassone*, upon "account of the Disturbances raised by the Inquisitors, and because the King "of *France* will not take Care to protect them from the Actions of the Inqui-"sitors according to their Desire, are willing to receive you for their Lord "and Defender, and will receive you, if, and whensoever you will please to "come, and deliver up to you the Borough of *Carcassone*, &c." And that the Lord *Ferrand* answered, that he would willingly accept what they offered him by the said Friar. And finally, he was accused of Magick, and that he had by him, and read a certain conjuring Book: That hereby he incurred the Sentence of Excommunication, and with an obstinate Mind continued under it for fifteen Years, and at the same time celebrated divine Services: That at length, after daily Contumacy, and long Processes form'd against him, he

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had fully confessed all, and humbly desired to be absolved from his Sentences of Excommunication. Upon this he was absolved from the said Sentence, but immediately pronounced, degraded, condemned to perpetual Imprisonment, and to do perpetual Penance in Irons, and with the Bread of Sorrow, and Water of Affliction. Moreover, the Inquisitors reserve to themselves the Mitigation of the aforesaid Penance, according as they should think expedient, and he himself should deserve it by Patience and Humility, and the Sacrifice of a contrite Heart. But Pope *John* XXII. revoked this Reserva- *fol.* 135. tion of mitigating the Punishment, and commanded that the whole Sentence and Penance pronounced against him, should be rigorously and entirely executed.

The second Instance is that of *William Garrici*, who, besides his being present at the Heretication of a certain Person, and adoring Hereticks after an heretical Manner, is said to have consented, with others, in the Advice and Endeavour, privately by the Assistance of one of the Servants of the said Inquisition, to steal away and burn the Books of the Inquisition at *Carcassone*, in which were written the Confessions and Depositions in the Fact of Heresy, and to have hindred by several other Methods the Office of the Inquisition. For this Reason he was excommunicated, and continued under it several Years, and was condemned to be imprisoned. But at length, after many Evasions, he acknowledged his Fault, and submitted himself to the Pleasure of the Inquisitors, humbly desiring Favour and Mercy from them. After he had solemnly abjured, not only Heresy, but also the favouring, receiving, defending, and partaking with Hereticks, he was absolved from his Excommunication, and had this Penance enjoined him; That in the first general Passage he should personally transport himself, where he should tarry during the Pleasure or Command of the Inquisitors, or their Successors. Or if he should be legally prevented, that then he should be obliged to send in his Room, at his own Cost and Expence, a sufficient and proper Soldier for the Defence of the holy Land. That within the Space of thirty Days he should depart the Kingdom of *France*, to such Place as the Inquisitors should appoint, there to abide till the Time of his transporting himself, or after that Time, if he sends a Soldier in his Room. After this Sentence was pronounced, read and published by the Inquisitors, Master *William Garrici*, upon his bent Knees, and with his Hands held up together, in Token of great Humility, said, That he accepted the aforesaid, giving and returning Thanks, first to the Lord Jesus Christ, and then to the Inquisitors, for these Favours bestowed upon him.

Other Magistrates are punished with Sentences of Excommunication, their Countries are put under Interdict, and given to the first Conqueror of them, many Instances of which we have seen in the first Book of this History. And because this Office, in it self hateful, is rendered much more so by the excessive Cruelty of the Inquisitors, who have hereby raised the Anger and Indignation of all Mankind against them; therefore Pope *Pius* V. to prevent the least Hurt or Injury from being offered them, and every Hindrance

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that may be made to this Office, did, in the Year of our Lord 1569. publish a most severe Bull against all who should hurt the State, Effects and Persons of the sacred Office of the Inquisition of heretical Pravity, which it is well worth while to give here entire.

PIUS, *Bishop, Servant of the Servants of God, for the perpetual Remembrance of the Thing.*

IF we are possessed with a daily Care of protecting all other Ministers of the Church, which we have received into our Care and Patronage from the Lord; how much more necessary is it that we should be careful, that they who are employed in the sacred Office of the Inquisition of heretical Pravity, may remain free from all Dangers, under the Protection of the inviolable Authority of this See, and that all Offices for the Exaltation of the Catholick Faith may be discharged? Since therefore the Violence of such ungodly Persons grows every Day stronger, who by all evil Arts endeavour to subvert the aforesaid Office, and to disturb the Ministers of it in the Discharge of their Duty, we are driven by Necessity more severely to curb this their wicked and ungodly Insolence. We therefore ordain by this general Constitution, with the Advice of our Brethren, that whosoever, whether a private Person, or whole City, or People, or Lord, Earl, Marquis, Duke, or any other more illustrious Person, shall kill, wound, drive away, or terrify any one of the Inquisitors, Advocates, Procurators, Notaries, or other Ministers of the aforesaid Office, or of the Bishops who execute this Office in their Diocese or Province, or the Accuser, Denouncer, or Witness, at any time produced, or called out in a Cause of the Faith; and whosoever shall assault, invade, burn, or plunder the Churches, Houses, or other Things, whether publick or private, of the Office or its Ministers; or whosoever shall burn, take away, or destroy the Books, Letters, Authorities, Copies, Registers, Protocols, Draughts, Writings, or other Instruments, whether publick or private, wheresoever they are placed; or whosoever shall carry them away from the Fire, or plunder, or by any other Method; or who shall be present, though unarmed, at such Fire, Assault, or Plunder, with a Design to seize, burn, or conceal them; or who shall prohibit such Effects and Persons to be preserved and defended; or whosoever shall break open any Jayl, or other Place of Custody, whether publick or private, ; or shall take out and cause to escape any Prisoner; or shall forbid any one to be apprehended, or if apprehended, shall rescue, receive, or conceal him, or shall furnish him with an Opportunity of escaping, or shall command it, or who shall make any Assembly or Concourse, or for these Ends shall give any Persons his Assistance, or shall knowingly otherwise grant them Help, Counsel or Favour, publickly or privately in any of the aforesaid, even though no Person should be killed, no one wounded, no one delivered, escape, or rescued, nothing forced, nothing broken open, burnt or plundered, altho' no Damage should actually follow; he shall nevertheless by Authority of this present Canon be put under Anathema, *become guilty of High Treason, and be deprived of Dominion, Dignity, Honour, Fee, and every other temporal and perpetual Benefice whatsoever, and left to the Pleasure of the secular Judge, who shall inflict on him the self same Punishments, which are by the lawful*

lawful Constitutions ordained against condemned Persons, and shall have all his Goods and Effects confiscated, as the Canonical Sanctions have ordered against condemned Hereticks; his Children shall be liable to their Fathers Infamy, and incapable of all Inheritance, Succession, Gift, Legacy whatsoever, whether from Relations or Strangers, nor ever be advanced to any Honours whatsoever. Nor shall any Person be able to purge himself, or to propose or carry any Cause, who shall have committed so heinous a Crime out of Contempt or Hatred of this Office, unless he can make the contrary to appear by very evident Proofs. The same also that we have ordained of the aforesaid, and their Children, we declare shall also take place with respect to all the Clergy, and Presbyters, Seculars and Regulars of all Orders, even tho' exempt; to all who have the Episcopal, or any higher Dignity, or whatsoever Privileges they may enjoy; so that they, by Authority of these Presents, shall be deprived of all their Ecclesiastical Benefices and Offices, degraded after the Manner of Hereticks, by the Ecclesiastical Judge delivered over to the secular Power, and subjected, as though they were lay Persons, to the aforesaid Punishments. However, we reserve to our selves and our Successors, the Causes belonging to the Popes, that when the Matter is enquired into, and related to them, we may proceed against them to Deposition and other the beforenamed Penalties, as the Heinousness of the Crime shall require. And whosoever shall attempt to ask Pardon, or otherwise to intercede for such Persons, let them know they shall actually incur the same Penalties, which by the sacred Constitutions are denounced against the Favourers of Hereticks. But if any one who is conscious or accessary to such Crimes, shall, through a Regard to Religion, or moved with Repentance, discover the Matter, before it is otherwise known, he shall be freed from Punishment. But 'tis our Desire, that this Method of granting all Absolutions whatsoever from the aforesaid Crimes, as also of Restorations and Restitutions to Reputation and Honour, shall be henceforth observed, viz. *that our Successors shall grant none of them till six Months at least after their Advancement to this supream Dignity, nor without Petitions expresly made and verified to the supream Office of the Inquisition established here. Decreeing that all and every such Absolutions, Restorations and Restitutions, which shall henceforward be granted to Petitions not thus verified and express, shall be of no manner of Advantage to any one; and that they ought not to derogate in any Part from these Presents, unless the whole Tenor of them be inserted to a Word, and such Grace be granted from the certain Knowledge of the* Roman *Pontiff, and signed with his own Hand; and if it should happen that for any Reason they be derogated from, such Derogations shall be of no Strength and Validity whatsoever. We therefore command all and singular the Patriarchs, Primates, Arch-Bishops and Bishops, and other Prelates of Churches constituted throughout the whole World, that by themselves, or another, or others, they procure these present Letters, or Copies of them, to be solemnly published every one in their Provinces, Cities, Dioceses, and Places, and as far as they are able to be firmly observed, by restraining all Contradictors whatsoever by Ecclesiastical Censures and Penalties without any Appeal, and by encreasing again and again such Censures and Penalties, and by calling in, if Need be, the Assistance of the secular Arm. All Constitutions and Ordinations Apostolick, and all other Things whatsoever to the contrary notwithstanding. 'Tis also our Will, that Copies of these Presents shall be printed and published, and signed with the Hand of a*

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publick Notary, and with the Seal of every Ecclesiastical Court or Prelate, and that they shall every where have the same Authority, as these Presents would, if they were exhibited and shewn. Moreover, we conjure all Princes of this World, to whom the Power of the secular Sword is granted for the Punishment of evil Men, by that Faith which they have promised to defend, so to interpose and act their Parts, either by granting Assistance to the aforesaid Ministers, or by punishing the Crimes after the Sentence of the Church, that by their Help the Ministers of so great an Office, may happily execute their Trust, to the Glory of the eternal God, and the Encrease of Religion, whereby they will receive a most ample Reward from God, in the Participation of eternal Blessedness, which he hath prepared for the Defenders of the aforesaid Faith. Let it therefore be lawful for no Man to infringe, or rashly dare to contradict this Page of our Sanction, Legation, Statute, Decree, Command, Obtestation and Will. But if any one shall presume thus to do, let him know that he shall incur the Indignation of Almighty God, and of his blessed Apostles Peter *and* Paul. *Given at St.* Peter'*s in* Rome, *in the Year of the Incarnation of our Lord,* CIƆICLXIX. Ap. 1. *and Fourth Year of our Pontificate.*

p. 2. *t.* 13. §. 24. According to the Constitution of this Bull, very grievous Punishments are often inflicted on those who violate it. *Carena* relates from *Farinacius*, that a certain Prisoner in the holy Office was hanged for killing his Keeper, in order to make his Escape. He adds, That at *Cremona*, *An.* 1614. a certain *Jew* was hanged for killing another *Jew* who had deposed against him in the holy Office. And not only thus, but if the Wound is not mortal, but slight, he says that he hath seen such Offenders sometimes condemned for ever to the Gallies, or at least for ten Years. This was executed upon a certain Person at *Cremona*, who had caned a Witness for deposing against his Brother in the holy Office. His Sentence was publickly read to him in the great Episcopal Hall at *Cremona*, *Carena* himself being present.

The same *Carena* gives us a Case, by which it will appear, that sometimes those who terrify Witnesses, but yet don't obtain their End, have been dismissed with a severe Reprimand, and being put in mind of the before-mentioned Bull. A certain Sergeant of the holy Office had a Message from the Inquisitor to deliver to a certain Countryman's Wife: The Woman not being at home, the Sergeant would leave it with her Husband, upon which the Countryman gave him several hard Names, and follow'd him with Weapons, crying out, *Li scirro becco torna in dietro a tor il tuo precetto.* The Pope consented that the Cause should be tried before him, *July* 15, 1621. and the Sentence approved was, that the said Countryman had incurred the Penalty of this Constitution, and that he was to be condemned to the Gallies for five Years; with this Addition, That from the Goodness of the Pope he should be heard, if he desired the Grace of Commutation, upon Consideration of the Plainness of the Man, and his conjugal Affection.

However, *Carena* adds a Caution, that from these Instances 'tis not lawful for the Inquisitors and Ministers of the holy Office, to make for themselves a general Rule, *viz.* that such who terrify the Witnesses ought to be punished,

punished, as above, and after the same Manner as those who wound them; for this is not left to the Pleasure of the Inquisitors or Ordinaries by the Matter of this Bull, but to the Cardinals, the supream Inquisitors, to whom it belongs to declare, whether Criminals have incurred the Penalties of this Constitution, or not.

He gives us another Instance that happened at *Cremona*, *An.* 1592. A certain Person had accused all the Witnesses examined against him in the holy Office, and had caused them to be imprisoned by the secular Judge for sundry Crimes and Damages which they and their Cattle had occasioned in his Grounds. The major Part of the Congregation at *Cremona* thought, that although the Accusation could not be called formally that terrifying of which the Bull speaks, yet inasmuch as it appeared slanderous and deceitful, the Criminal should be obliged to free the imprisoned Witnesses from Jayl at his own Expence, and pay them, when delivered, all their Charges.

This takes place, not only when any Person is accused as an Heretick, §. 17.
" but in all and every Cause whatsoever belonging to the holy Office; be-
" cause every Cause belonging to this Tribunal, is properly said to be a Cause
" of the Faith, and to belong to it, and to infer some Mark of the Faith,
" either directly or indirectly. And in all Causes of this holy Office there is
" the same Reason for maintaining the Liberty of this Tribunal. Thus in
" the Year 1635. a certain *Neopolitan* Soldier had rescued from the *Sbirri* a
" certain Blasphemer, taken up in the Name of the holy Office, for which
" he was condemned by Order of the supream Tribunal of the City to all
" the Penalties of this Constitution. Altho' afterwards, through the Fa-
" vour of the said supream Tribunal, the Punishment of Death was exchanged
" for that of the Gallies for ten Years. And this was publickly executed at
" *Cremona*, in the Hall of the holy Office."

Yea, they extend this Affair sometimes so far, that all manner of Offences committed against any one that belongs to the Inquisitors, though they have no Relation to the Faith, are punished in the same Manner, as though the Office of the Inquisition had been hindered by them, or the Inquisitor himself had received some grievous Injury. *Reginald Gonsalvius* gives us a remarkable Instance of this which happened in the former Age at *Seville*. The p. 191. Bishop of *Terragone*, chief Inquisitor at *Seville*, went one Summer for his Diversion to some pleasant Gardens situate by the Sea Side, with all his Inquisitory Family, and walked out, according to his Custom, with his Episcopal Attendance. A Child of the Gardener, two or three Years old at most, accidentally sat playing upon the Side of a Pond in the Garden, where my Lord Bishop was taking his Pleasure. One of the Boys that attended his Lordship, snatch'd out of the Hand of the Gardener's Child a Reed, with which he was playing, and made him cry. The Gardener hearing his Child, comes to the Place, and when he found out the Occasion of his crying, was angry, and bad the Inquisitor's Servant restore the Reed to him. And upon his Refusal, and insolently contemning the Countryman, he snatched it away, and as the Boy held it fast, the Gardener slightly hurt his Hand

by the ſharp Huſk of the Reed, in pulling it from him. The Wound was far from being mortal, or from endangering the Loſs of any Part, and ſo could not deſerve a ſevere Puniſhment. 'Twas no more than a Scratch of the Skin, a mere childiſh Wound, as one may imagine by the Cauſe of it. However, the Inquiſitor's Boy came to his Maſter, who was walking near the Place, to complain about his Wound, upon which the Inquiſitor orders the Gardener to be taken up, and thrown into the Inquiſitory Jayl, and kept him there for nine Months in very heavy Irons, by which he received ſuch Damage in his Circumſtances, which were at beſt but mean, as the poor Man could not eaſily recover; his Children and Wife, in the mean while, being ready to periſh for Hunger. And all becauſe he did not pay Deference enough to the Inquiſitor's Boy, as a Member of the holy Tribunal. At nine Months End they diſmiſſed him from Jayl, and would have perſuaded him, that they dealt much more mercifully with him, than his Crime deſerved.

CHAP. XI.

Of Perſons ſuſpected of HERESY.

Direct. part. 2. Qu. 55, 56.

ALthough, in other Caſes, 'tis uſual to diſtinguiſh between a Suſpicion and a Preſumption, a Suſpicion being no other than a Man's Opinion concerning a Crime, ſeveral of which Suſpicions muſt concur to form a Preſumption of it, yet in the Cauſe of Hereſy they are taken for the ſame. A Preſumption or Suſpicion therefore in this Affair is, a probable Gueſs of a doubtful Matter, proceeding from the Nature of the Thing, or the Circumſtances of Affairs or Perſons. Preſumptions ariſe from a Perſon's Country and Parents; but theſe are too general. Others ariſe from his Education, and the Manners of thoſe with whom he converſes. This is the Reaſon that the Inquiſitors, in their firſt Examinations, ſo diligently aſk the Criminals of what Nation, Country, Family and Kindred they are, amongſt whom they have been educated, who were their Maſters, Inſtructors, Companions and Friends. For theſe Things, and a thouſand other ſuch are uſually conſidered in doubtful Caſes, that from hence they may draw more probable Proofs. They alſo conſider the Sex. A Man may more eaſily be preſumed guilty of Robbery. A Woman of Witchcraft. And farther, they conſider the Age, Fortune, Difference of Condition, Nature of Mind, and Inclinations.

Simanc. t. 50. §. 8, &c. §. 17.

In the Cauſe of Hereſy Suſpicion is threefold; Light, Vehement and Violent: A light Suſpicion is that which ariſes from the external Signs of Actions and Words, by which ſuch a Gueſs may be made, as may imply, not indeed frequently, but ſeldom, and by Accident, that he who ſays or does ſuch Things is an Heretick. This is inferred by a ſmall Conſequence.

As if any one ſhould argue thus: He is found to frequent private Conventicles, and in his Life and Manners departs from the common Converſation of the Faithful; therefore he is an Heretick, becauſe Hereticks themſelves are found to do ſuch Things frequently. Such are lightly ſuſpected of Hereſy. But the Inquiſitors teach, that ſuch Perſons ought not eaſily to be proceeded againſt in a Cauſe of ſuch Importance. However, ſometimes the very ſpeaking to Hereticks hath not eſcaped without Puniſhment. Thus *Bzovius* relates, *An.* 1234. §. 14. *Acurſius*, the Son of *Aldobrandinus*, a Citizen of *Florence*, incurred the Canon, becauſe, whilſt he dwelt in *France*, he converſed with Hereticks. For 'twas, they thought, a Crime for any one ſo much as to ſalute them, contrary to the Apoſtolick Inſtitutions. But as he was afterwards abſolved by *Raymond Peniafortius*, Penitentiary of the Apoſtolick See, Pope *Gregory* enjoin'd the Prior, and Friar *Robert*, and the reſt of the Predicant Friars in *Paris*, that they ſhould not any ways moleſt him, or ſuffer or command him to be moleſted.

A vehement Suſpicion, which is alſo called *Juris*, ariſes from ſuch external Words and Deeds, which, when known, infer an Argument frequently concluſive; and becauſe, as to moſt, he who doth or ſays ſuch Things is an Heretick; and is uſually taken for full Proof, if there be nothing proved to the contrary. Such are thoſe, who being called to anſwer concerning the Faith, do not appear in the Time aſſigned them; ſuch who knowingly hinder the Office of the Inquiſition; who knowingly give their Counſel and Aſſiſtance and Favour to ſuch Hinderers; who inſtruct Hereticks when cited to conceal the Truth, and ſpeak falſely; who are any ways excommunicated upon Account of the Faith; who knowingly favour, defend, and receive Hereticks; who are infamous for Hereſy, upon account of their Familiarity with ſuch whom they know to be Hereticks; who knowingly accompany, viſit and receive Hereticks. He alſo who gives a Kiſs to an Heretick is vehemently to be ſuſpected of Hereſy, according to the Judgment of the Synod of *Terragone*, according to this Decree: *It is likewiſe enquired: Whether he who gave a Kiſs to one of the* Inzabbatati, *or an Heretick, when he believed and knew him to be ſuch a Perſon, or prayed with him, or concealed him, or heard preaching or reading from him, and believed him to be a good Man, is to be judged of as a Believer of his Errors? And we ſay that he is not. However, let ſuch an one be condemned as a Favourer, or Concealer, and Benefactor, and vehemently ſuſpected to believe his Errors; unleſs he ſhould be ſo learned or diſcreet, as not to be able to pretend Ignorance. And this we think proper to leave to the Pleaſure of the prudent Judge.* Beſides theſe, ſuch alſo are vehemently ſuſpected, who are judicially convicted of Perjury, or a Lye, in a Cauſe of the Faith, and who have often done or ſaid any thing againſt the Faith, and the like, for all the particular Caſes cannot be enumerated. They who do ſuch Things are ſaid to be vehemently ſuſpected.

Amongſt theſe are reckoned alſo, ſuch who knowingly give Eccleſiaſtical *Direct. p.* 3. Burial to Hereticks, their Believers, Receivers, Defenders, and Favourers, *i. e.* *qu.* 40. who bury them in the Church-yard, after a Chriſtian Manner, with Pſalms *com.* 89. and Prayers. For he who knowingly buries thoſe, whom the Church perſecutes

cutes and condemns as Hereticks, or suspected of Heresy, doth, whatever he may think in his Mind, seem by Fact to declare and profess, either that the Church ought not to deprive such Persons of Burial, or that it is lawful to pray for Hereticks and their Believers, *&c.* because he buries them after the Manner of Catholicks. But whether this Suspicion be only light, or vehement, skilful Men must judge of according to the Quality of the Persons. The Punishment of such is Excommunication, from which they cannot be absolved without proper Satisfaction, whether it be Abjuration or Canonical Purgation. Nor can they merit the Benefit of Absolution, unless they unbury them with their own Hands, and throw out the Bodies of such condemned Persons from their Graves. Cap. *Quicunq*; in princ. de hæret. lib. 6.

The same Suspicion arises, if any one celebrates the Obsequies of such a Person after the Manner of Catholicks, when such Heretick or suspected Person dies any where else, at *Geneva* for Instance, or any other Place, where Men live and believe heretically. And finally, if any one steals away and preserves the Ashes, Bones, Garments or the like, of burned Hereticks.

But if any one finds an Heretick, or a Believer or Favourer of Hereticks, or any such Person dead, in those Places in which he cannot easily accuse them before the lawful Judges, then he may inter them, but not in holy Ground, that so their unburied Bodies may not corrupt the Air; nor shall he hereby deserve any Punishment, or contract any Suspicion of Heresy. He must however report the Affair to the Judges of the Faith, as soon as he can, that they may appoint what is needful to be done.

Tit. 49. §. 1, 3. There is also another Kind of suspected Persons, *viz.* those who have said any Thing scandalous or suspected, as *Simancas* teaches us. *Tit.* 49. "No one "ought to preach, who is not examined and approved. But if any Preacher "thus examined and approved, shall have said any Thing scandalous or "suspected, the Inquisitors must summon him, and immediately compel him, "either publickly to retract it, or to explain it to the People in a pious and "catholick Sense; and he is moreover to be corrected and admonished, not "to dare to preach such Things for the future. But if he preaches any He"resy, he must be punished according to his Crime, and deprived of the Of"fice of Preaching. *J. Royas* explains this more fully. *part.* 2. *assert.* 33. Whosoever shall "confess, or be convicted of Propositions rash, injurious, scandalous, or the "like, he must be punished in an extraordinary Manner, and forced to ab"jure, according to the Nature of the Suspicion, whether it be light or vehe"ment. 4 *Instruct. Tolet.* cap. 8. *Instruct. Madril.* An. 1561. c. 53. and 65. "For these and the like Crimes, which are not direct Heresies, Criminals "are seldom detained in the secret Prisons of the holy Office, but in Mona"steries or private Places. 4 *Instruct. Hispal.* c. 4. 3 *Instruct. Pinciana.* c. 10. "This is the Case, though the Crime be not fully proved; but pecuniary "Punishments inflicted for such Offences, must be converted to the Use of "the holy Office."

But lest the Popish Doctors should be easily rendered suspected of Heresy, and deprived of their Office by the Inquisitors, they generally make use of a certain

certain Proteſtation, that by this Means they may eſcape Cenſure, as *Simancas* teaches. "Becauſe 'tis dangerous to diſpute about Matters of Faith and Religion, even though the Truth be ſpoken, therefore learned Men, wiſe and pious, when they treat of theſe Things, do with Prudence uſually make a ſolemn Proteſtation, that they would not by any Means deviate from the Catholick Faith, but in all Things, and always embrace the Doctrine of the Univerſal Church, and willingly ſubject themſelves to her Cenſure. After this they add a conditional Revocation, to this Senſe: That if it ſhall happen that they have ſaid or written any Thing againſt the Catholick Faith, they do from henceforth retract it, and would have all underſtand that it was ſaid or written through Unſkilfulneſs or Imprudence, and not through Malice or Obſtinacy." But leaſt any one ſhould eaſily eſcape the Cenſure of the Inquiſitor by ſuch kind of Proteſtations, *Simancas* adds theſe Limitations. "That ſuch Proteſtation, though repeated a thouſand times, doth not excuſe, when any one willingly errs againſt the Catholick Faith; or when through Ignorance he errs in thoſe Things, which he is explicitely required to know, unleſs poſſibly he is able to prove his Ignorance, or ſome Cauſe of his Error. But it will be of great Advantage to him when he errs in thoſe Things, which are ſo difficult, obſcure and doubtful, that may ſometimes eſcape the moſt learned Men. Becauſe ſuch an Error is ſuppoſed to ariſe more from Ignorance than Malice."

Tit. 55. §. 1. §. 6. §. 8. §. 9.

Suſpicion alſo ariſes, that a Perſon thinks ill of ſome Doctrine or Inſtitution, or Order of the Church, or ſome other Thing concerning which he muſt believe as the Church believes, *viz.* concerning the Power of the Pope, and Prelates, the holy Religions of the Monks, the Rites of the Sacraments, and other Things, if he treat them unworthily, injuriouſly and diſgracefully; or if he defiles theſe excommunicatory Libels, which are commonly called *Cedulones*, by drawing naſty Figures upon them. Such Perſons *Columna Marſilius*, Arch-Biſhop of *Salerno*, in a certain Anſwer contends, do belong to the holy Office, becauſe, by this Action, they ſeem to think wrong of the Power of the Prelates, and to contemn the Cenſures of the Church, and to ſcoff at and diſgrace the Church which uſes ſuch Cenſures. Farther, if any one perſiſts in his Excommunication for two Years, or for one, he is ſuſpected of Hereſy. For then 'tis preſumed that he thinks ill of the Sacraments of the Church, and its Power, becauſe he deſpiſes its Excommunication. But if any one be excommunicated for Contumacy committed, in a Cauſe of Hereſy, after a Year he is looked on as an Heretick, and may be puniſhed as ſuch.

par. 3. *com.* 23. *p.* 472. *Lucern. Inquiſ. in v. Suſpicion.*

Such alſo are ſuſpected who converſe with Hereticks, and from ſuch Converſation there ariſe Signs ſufficient to put ſuch an one to the Torture, as *Carena* teaches, *p.* 2. *t.* 4. §. 7. *n.* 69.

A violent Suſpicion, which is alſo called *Juris* and *de Jure*, is a certain Diſpoſition of the Law, preſuming ſomething, and determining upon ſuch Preſumption, as though it were certain and known. Nor can any Proof to the contrary be regularly and directly admitted againſt ſuch Preſumption; becauſe, as it proceeds from open and violent Marks, it is taken for a mani-

feſt

fest Truth. It arises from external Signs of Actions or Words, by which it may be concluded effectually, and almost always, that he who says or doth these Things is an Heretick. As if heretofore any one should adore Hereticks, or reverence them after their Manner; or receive the Consolation or Communion from them, or do the like Things belonging to their Custom. Cap. *Filii* & *Accusatus*. Extra. de hæret. lib. 6. Such are said to be violently suspected.

A Person lightly suspected, is enjoined Canonical Purgation, or even a light Abjuration. In this Case however the Proceeding must be cautious; because if any one falls into the like Suspicion after Abjuration, he must be more grievously punished. Cap. *Accusatus*. In princip. *A Person accused or suspected of Heresy, against whom there is arisen great and vehement Suspicion of this Crime, if in Judgment he abjures his Heresy, and afterwards falls into the same Suspicion, ought to be looked on as a Relapse by a certain Construction of Law, although before his Abjuration the Crime of Heresy hath not been proved. But if such Suspicion shall be light and moderate, although on this Account he is to be more grievously punished, yet he is not to be punished as those who relapse into Heresy.*

A Person vehemently suspected is not an Heretick, nor can he be punished as an Heretick. Extra. de præsumpt. c. *literas*. §. *Quocirca*. where 'tis expressly said, *Because for the mere Suspicion, though vehement, we would not have him condemned for so grievous a Crime.* But he must be commanded to abjure generally every Heresy, and especially that in which he offended, as a Person vehemently suspected. And this is no light Punishment. Because if he afterwards relapses either into his former Heresy, or any other, or associates with those whom he knows to be Hereticks, or affords them such Favour as is capable of no Excuse, he incurs the Penalty of the Relapsed. Cap. *Accusatus*. where we have these Words. *But as to the Person who offends in one Sort or Sect of Heresy, or errs in one Article of Faith or Sacrament of the Church, and afterwards shall abjure simply or generally his Heresy; if after this he offends by falling into another Sort or Sect of Heresy, or errs in any other Article or Sacrament, we will that he shall be judged as one relapsed into Heresy. He also, concerning whose Fall into Heresy before Abjuration, there hath been, or now is a Certainty, who, after such Abjuration, shall receive, accompany, visit, or associate himself with Hereticks, or shall make or send them Presents or Gifts, or grant them such Favour as cannot be excused, even though he doth not adore them, to use your Words, is deservedly to be judged as a Relapse; since 'tis not to be doubted that these Actions are the Consequence of the former Error he approved.* If he doth not consent immediately to abjure at the Command of his Judge, he is excommunicated; and if he continues under Excommunication for a Year, he must be condemned as an Heretick, and delivered over to the secular Arm; and may in the mean while be punished with some lesser Punishment, at the Pleasure of his Judge, as particularly with a Fine.

Simanc. t. 46. §. 76. "But this only takes Place, when the Criminal is vehemently suspected, " and upon account of his Age, or State of Health, or any other Cause, can- " not be tortured or purged. In such a Case he is carried out in publick,

" cloathed

" cloathed with the penitential Habit, and is solemnly to abjure, and to for-
" feit the third Part of his Effects, more or less, at the Pleasure of the Judge.
" But these Penalties must be applied to the Expences of the Office of the
" holy Inquisition, nor can they be received as Payment of the Salary due to
" them, or their Ministers, as is more fully contain'd in a certain Command
" of the General Inquisition. 4 *Instruct. Tolet.* cap. 8."

As to the Heirs of those who are suspected of the Crime of Heresy, and who are Favourers, *&c.* of them, they must not be condemned to pay those pecuniary Penalties, if such suspected Persons die, whilst the Accusation is depending; because Suspicions, though vehement, are extinguished by the Death of the Criminals. Cap. *Accusatus.* §. *Porro. Moreover, if any one, upon account of the Reception, Defence, or favouring of such Hereticks, shall have bound his Estate to perform that Penance which the Inquisitors would enjoin him, and shall die before such Penance be enjoin'd him, his Heirs shall not be obliged to make such Satisfaction for a Crime already extinguish'd by Death.* Nor can they be compelled to perform a personal Penance enjoin'd to such suspected Person, but not actually perform'd by him. But they may be forced to perform the Penance actually enjoined him, whilst alive, out of his Estate. Cap. *Accusatus.* §. *si vero. But if any one hath tied his Estate to the Inquisitors, to receive from them and perform Penance, upon account of those Things in which he hath offended, by receiving Hereticks, or defending and favouring Hereticks, though he is not an actual Heretick himself, and shall die after such Injunction of Penance, without having performed it; if by such Penance any Burthen, profitable to Salvation, be laid upon, and to be exacted from his temporal Estate, his Heirs may be compelled by the Inquisitors to fulfil it, or any other to whom such Estate with this Incumbrance on it may devolve.* So that if it was enjoined him to build a Church or Hospital, or to restore Usury, and the like, and he hath bound his Estate for accomplishing the said Penance, to whatsoever Successor, even though to any particular one, such Estate shall, after his Death, devolve, it always comes to him with such Incumbrance. This is also provided for by the Council of *Biterre*, cap. 19. *Let the same take place as to those, who die after having received Penance, but have delay'd to perform it; or, as above-mentioned, have tied their Estates to fulfil it.* §. 77. Eymer. p. 3. q. 120. com. 169.

He who is violently suspected, is to be condemned as one convicted of Heresy, and as an Heretick. Cap. *Excommunicamus.* 1. §. *Qui vero.* Extra. de hæret. lib. 5. & Cap. *Cum contumacia.* & Cap. *Ut Officium.* For he either confesses his Crime or not. If he confesses, and will return, and abjure his Heresy, he must be admitted to Penance. Cap. *Ad abolendam.* & Cap. *Excommunicamns.* 2. §. fin. If he doth not consent to abjure, he must be delivered over to the secular Court, and receive his deserved Punishment. Cap. *Ad abolendam.* §. 1. If he doth not confess his Crime after he is convicted, and will not consent to abjure, he is to be condemned as an impenitent Heretick. Cap. *Ad abolendam.* From these Things it appears, that although a light, a vehement, or violent Suspicion, arise from different Causes, yet it may happen that a light Suspicion may at length arise to a violent one, and the Beginning of a violent Suspicion end in a light one. For Instance, if one lightly suspected,

ſuſpected, and cited to anſwer concerning the Faith, doth not appear, he becomes vehemently ſuſpected, and is excommunicated. And if he abides under that Excommunication for a Year, he is violently ſuſpected, and condemned as an Heretick.

CHAP. XII.

Of Perſons defamed for HERESY.

Direct. p. 2. qu. 57. WHO they are that are defamed for Hereſy, we are taught by the Council of *Tholouſe*. Cap. 16. *Such ought to be accounted defamed, who are cried out againſt by publick Report, or of whoſe Defamation amongſt good and grave Perſons there is legal Proof before the Biſhop of the Place.* So that to the perfect Proof of ſuch Defamation or Infamy for Hereſy, two good and grave Witneſſes ſuffice. But if they are vile and infamous, although they are not to be deſpiſed on this Account, ſo as to ſtop proceeding to an Inquiſition from what they depoſe, yet ſuch Defamation is not fully proved by them.

Lucern. Inq. in voce Infamia. They ſay alſo, that 'tis not neceſſary that the Witneſſes ſhould hear this Infamy from the ſame prudent and diſcreet Perſons; but 'tis ſufficient, though they hear it from different. And they give this Reaſon for it; becauſe as they are only to prove Infamy, 'tis ſufficient if the Witneſſes agree in and concerning this Matter. Yea, they teach farther, that 'tis not neceſſary that the Witneſſes ſhould agree as to the Cauſes of their own Knowledge. So that if the Witneſſes ſhould ſay, they know this Infamy, becauſe they have heard of it, they are not bound to prove they have heard it; nor is it required that one Witneſs ſhould agree with the other as to Time and Place, and the Cauſes of their Knowledge. Becauſe the Queſtion is not about theſe Things, but only concerning the Fame and Infamy. So that tho' they appear ſingular in what they ſay, their Aſſertion ſhall be abided by.

Ibid. When once this Infamy is proved by Witneſſes, they enquire, whether the Perſon inquiſited can prove himſelf to be of good Reputation, and thus put a Stop to the Inquiſition concerning the Truth of the Crime, and take away the Proof of his bad Character. Here the Popiſh Doctors greatly differ. Some ſay, that the Proof concerning his good Character, ought not to be admitted, becauſe it ſeems to be eluſive. For if an hundred Perſons ſhould ſay ſuch an one hath a bad Character, and a thouſand that he is of a good one, the Proof of the good one doth not diſcharge him, becauſe he ſtill remains infamous in the Account of others, and the Inquiſition is to be made in regard of them. Others ſay, that the Report of the greateſt Number is to be ſtood to. Others, that the Proof is to be admitted, but whether it affects the contrary Proof depends upon conſidering wherein the publick Report agrees, what is the Quality of the Witneſſes and Perſons, according to which the Judge is

to determine which of the Proofs is valid. Others say, that either the Witnesses on both Sides depose concerning the Person's Character, as to the same Place and Time, and then the most credible Witnesses are to be believed; or the Witnesses on both Sides are equally credible, and then the greatest Number must determine; or the Number of them is equal, and then the most probable Proof is to take Place, and that Proof is to be accounted the most probable, which adds Weight to the Cause by any like Presumption.

The Punishment of one thus defamed is Canonical Purgation, and some other ordinary Penalty. Cap. *Excommunicamus itaq*; Extra. de hæret. §. *Adjicimus*, when the Defamation is fully proved. But if it is not fully proved, the Person cannot be compelled to a Canonical Purgation, unless there be fuller Proof, and other Signs and Tokens concur with the Defamation. They say 'tis the same, if the Infamy arises from Rivals and Enemies. This is sufficient to give a Beginning to the Inquisition, but not to enjoin Canonical Purgation, unless what they say be probable. Sometimes also Persons are defamed for Heresy upon this Account, that they have lived in Places defamed or suspected of Heresy, and from thence have come amongst the Papists. In this Case the Synod of *Saltzbourg*, held two Ages ago, hath decreed: *The Parish Priests ought also to observe those who come from the Countries of Hereticks, or Places suspected of Heresy, and to consider the Words and Deeds of all such, and to take Cognizance of their Life, Behaviour and Manners; and if there be any Ground of Suspicion, to acquaint the Ordinary with it.* Finally, the Council of *Tholouse* hath provided, That the Prelates, Barons, and all other Lords of Countries, shall not have in their Families or Counsel, Persons defamed or suspected of Heresy, in these Words: *Neither let them presume to have or retain in their Family or Counsel, such Persons*, viz. Hereticks, or Believers of Hereticks, *or any other defamed of Heresy, or whom they believe to be suspected concerning it.* This they explain, not only of Persons condemned, and judicially and legally proved to be infamous and suspected, but of such Persons before they have received Sentence.

Constit. 6. *cap.* 2.

Cap. 16.

CHAP. XIII.

Of Persons Relapsed.

A Person is said to be relapsed, upon a double Account, either into Heresy, or the favouring of Heresy. One relapsed into Heresy is he, who after he hath been convicted either by the Evidence of the Fact, or his own Confession, or by a legal Production of Witnesses, hath publickly abjured his Heresy, and is convicted of falling into it again. So that though a Person who falls into the same Error again and again, without any solemn Pe-

Direct. p. 2. *qu.* 58.

nance intervening, or making an Abjuration or Canonical Purgation, may be truly said to be a Relapse, yet he cannot be punish'd as such, so as to be delivered over to the secular Court, if so be he will repent. Of these relapsed Persons there are four Sorts. The first, when any one falls into the same Heresy he hath abjured. Here the Doctors dispute, whether or no a Person who abjures as an Heretick before the Inquisitors Subdelegate, and afterwards falls into the same or any other Heresy, is to be accounted as a Relapse, if there be no Certainty of the Subdelegation of that Judge before whom he abjures. However, in the City of *Como*, a certain Woman, who had thus abjured, was given over as a Relapse to the secular Arm, and burnt, by the Advice of the whole College of Counsellors in that City, and of the Bishop, and of *John Thomas Odeschalcus*, a Senator. It was determined also after the same Manner at *Mantua* in a like Case. The second, when any one falls into an Heresy which he abjured as vehemently suspected, but not if he only falls again into a vehement Suspicion of Heresy. The third, when after a general Abjuration of Heresy, he falls into an Heresy different from the particular one he abjured. The fourth, when after having abjured as an Heretick, he accompanies, visits, *&c.* Hereticks, sends them Presents, or grants them Favour.

Carena, *p.* 2. *t.* 2. §. 6. *n.* 36.

Cap. *Accusatus.* de hæret. l. 6 Ibid. §. *Cum vero.* §. *Ille quoque.*

The Gloss on the aforesaid cited Chapter only excepts the Case of Hunger, which excuses, provided it be violent. But this Exception was not allowed by the supream Council of the *Spanish* Inquisition, in which a certain Person was delivered over to the secular Arm as a Relapse, who having been reconciled as a *Moor*, returned afterwards to some of that sort, and would have excused himself by this Gloss, that he went to them upon account of Hunger.

Carena, *p.* 2. *t.* 2. §. 5. *n.* 31.

So that in order to a Man's being accounted as a Relapse, *J. Royas* says 'tis necessary, that it be proved that the Criminal did fall into Heresy, and is now fallen again into it. The Proof, as to the first, must be true or presumptive, as to the second Legal: He therefore advises, that the Promoter Fiscal should be cautious in accusing the Criminal of his first Lapse, that he may not be obliged only to exhibit the first Sentence pronounced against such a Relapse, but that it may appear by the Confession of the Criminal, and the Instrument of his Sentence, that he was fallen into Heresy, and hath abjured. But even then the Criminal is to be heard, desiring to alledge and prove his Innocence. The same *Royas* says, that in the Inquisition of *Valence*, there is an Apostolick Indult, which provides, that Persons relapsed, if *Moors*, and truly penitent, may be again reconciled to the Inquisitors, because new Converts should be more mildly dealt with. But this must not be extended to their Teachers commonly called *Alfaquins*.

p. 2. *assert.* 41. §. 332.

§. 335.

§. 348.

But besides these, there are two other Ways, by which a Person is accounted to be a Relapse. First, When he is found to be perjured after Abjuration, according to the Rescript of *Innocent* IV. *Sperabamus. Calling before you again as well those who have confessed concerning heretical Pravity, as those who have not, whether they have been enjoined Penance by you on this Account or no, compel them to declare the Truth, as well concerning themselves, as others suspected of Heresy*;

Tr. tr. fol. 417.

Heresy; so that if any of them be found to have suppressed the Truth in any Thing, or as Dogs, to have returned to the Vomit, they shall be altogether accounted unworthy of all Favour. From whence the Author of the Book, *Concerning the Form of Proceeding against Persons inquisited for Heresy*, of which *Calderine* is supposed to be the Author, infers, that such Persons are accounted Relapsed. Secondly, When after Abjuration and Purgation, the Criminal hath not performed the Penance enjoined him by the Inquisitors. To this Purpose the Words of the Council of *Biterre* are cited. *Whosoever shall lapse again after such* (general) *Abjuration, and they who do not observe and do the Penances enjoined them, let them be punished as Relapsed. Bernard Comensis* is of the same Opinion. *If Hereticks do not fulfil the Penance enjoined them after having abjured Heresy,* Matthew *says, they ought to be accounted as Relapsed, and he alledges the Text,* Clem. 3. eod. tit. in fi. ibi, & satisfactionem habuerint. *He also cites* Cap. ad Abolendam. §. penult. *Pegna* notes, *That this Opinion, simply taken, is not true, but that many Heads must be distinguished, that the Truth may be understood, as we have taught in our Directory of the Inquisitors*, p. 3. q. 97. But between these and the former sort of relapsed Persons, there is this Difference, that the former are to be left without any Mercy to the secular Arm; but as to the latter, 'tis in the Inquisitors Pleasure to deliver them to the secular Judgment or not. Lucern. *Inquis. in voce*, pœna pecuniaria.

However, all who do not observe the Penance enjoined them, are not promiscuously accounted Relapsed. This Penance is either altogether contrary to Heresy, *viz.* if the Penitent be commanded to abjure, to preach against his Errors, not to communicate with Hereticks, and the like. In this Case, if he doth not obey, they say he may be punished as a Relapse. Or the Penance tends to the Purgation of his Fault, *viz.* when Fastings, Prayers, and other pious Works are enjoined the Penitent. In this Case he who doth not perform every Thing, may be punished with an arbitrary Fine. But *Simancas* is of a different Opinion, who thinks such Persons to be obstinate, impenitent, or any Thing rather than Relapsed; and that therefore Penance ought to be again enjoined them at the Pleasure of the Judges, according to the Nature of their Crime. Simanc. *tit.* 47. §. 77.

In like manner he who is condemned to perpetual Imprisonment, and escapes out of it, is generally accounted as a Relapse, because his Conversion seems to have been feigned, and he himself to have fallen into his former Error. *Bernard Comensis* is of this Opinion. But *Simancas* rejects this Opinion as cruel and false, and says, such a one is an Impenitent, but not a Relapse. So that whilst he continues his Escape, and doth not satisfy the Penance enjoined him, he may be condemned as an Impenitent. But if either he returns himself, or is apprehended, and ready to satisfy the Church, then he is to be enjoin'd a greater Penance upon account of his Escape, but is to be kindly received into the Bosom of the Church. Simanc. *tit.* 16. §. 24, 25. Lucern. Inq. voce *Fugitivus.*

As to the Punishment of the Relapsed, the Council of *Tarragone* hath formerly thus determined. *Some Persons doubt, whether Persons relapsed into the Belief of Hereticks, and dogmatising Hereticks, ought to be left to the secular Judgment, if after they are apprehended they will repent. To us it seems that they ought not. But*

in every ſuch Caſe they are to be condemned to Impriſonment. Thus alſo *Guido Fulcodius*, in a certain Conſultation, anſwers. *But if, which God forbid, ſuch ſhould relapſe, they are not to be received without a publick Penance, which is elſewhere determined, unleſs it may poſſibly occaſion any Scandal, and a greater Diviſion, which we ought diligently to take Care of.* But the Council of *Narbonne*, *cap.* 11. thus determines. *As to thoſe, who, after their Abjuration of Error and Purgation, ſhall be found to have fallen again into the Hereſy they have abjured, leave them without farther hearing to the ſecular Judgment, to receive their due Puniſhment, ſince 'tis enough that ſuch have once deceived the Church by a falſe Converſion.* There is only this Difference, that if they repent, they are not denied the Sacraments of Penance and the Euchariſt. Cap. *Super eo.* de hæret. lib. 6. But in *Spain* the Euchariſt is generally denied to ſuch Relapſed, upon account of the Danger which may happen by the Alteration which he receives, who is to be delivered over to the ſecular Arm, and he is only allowed the Sacrament of Penance. Hence they ſay, that relapſed Penitents are reincorporated into the Church, which is done by the Sacrament of Penance; but that they are not reconciled to it, becauſe the Sacrament of the Euchariſt is neceſſary in order to it. But if they do not repent, they are delivered over to the ſecular Court as obſtinate Hereticks. But *Simancas* obſerves, that there are ſome "who think that relapſed Hereticks may ſometimes obtain Pardon, *viz.* when "any one really relapſed, and not yet accuſed, nor convicted by any Witneſſes, "ſecretly accuſes himſelf to the Inquiſitors, voluntarily confeſſes his Errors, "and with Tears aſks Mercy, being ready to undergo any Penance, becauſe "as to him there can't be that evil Suſpicion, by which relapſed Perſons are "preſumed to be feignedly converted. But *Simancas* himſelf is of Opinion, "that this can't be defended, unleſs it be helped out with a favourable Interpretation, becauſe the Judge is the Keeper and Miniſter of the Laws, and "not the Lord of them." We muſt not omit here, that Pope *Paul* IV. *Anno* 1555. by a Bull beginning, *Cum quorundam hominum*, commands, *that all and ſingular ſuch ſhould be accounted as relapſed into Hereſy, and delivered over as ſuch to the ſecular Court, even for the firſt Fault, who teach that God is not three in Perſons, that the Lord Jeſus is not conſubſtantial to the Father and the Holy Ghoſt; or that he was not conceived of the Holy Ghoſt; or that he did not undergo the Death of the Croſs to reconcile us to the Father; or that the Virgin* Mary *is not the true Mother of God; or did not preſerve her Virginity entire,* viz. *before, when, and always after ſhe brought him forth.*

Carena, *p.* 2. *t.* 1. §. 6. *n.* 41.

tit. 57. §. 8.

A Relapſe into the Favouring of Hereſy, is one who hath abjured ſuch Favouring, and afterwards relapſes into it, as the Council of *Tarragone* defines it. But whether this is to be underſtood, if they relapſe into the ſame Favouring, or into any other, and whether both, or the former only, are to be delivered over to the ſecular Court, and puniſhed with Death, the Laws do not clearly determine. And therefore ſome think it the ſafeſt way, in ſuch Caſe, to conſult the chief Pontiff, or the Senate of the general *Roman* Inquiſition.

The Council of *Tholouſe* hath thus determined concerning Perſons relapſed into the Favouring of Hereſy, as this Decree is extant in the Book, *Concerning the*

the Method of Proceeding against Persons inquisited for Heresy. As to those who were known to be Receivers, Defenders and Favourers, and have been reconciled, and sworn to obey the Commands of the Church, and have fallen again into the Crime they have abjured, or obstinately refuse to receive and fulfil their Penances; if being afterwards admonished, or not admonished, they will humbly acknowledge their Guilt and amend, after receiving from them such and so great Securities, besides the Caution of an Oath, as may restrain them by the Fear of temporal Punishment, enjoin them such Penance as may be a Terror to others. But otherwise proceed against them as far as ye can by Law. *Tract. Doctor. tom. 11. p. 2. fol. 417.*

CHAP. XIV.

Of such who read and keep prohibited Books.

BEsides these there are others, whose Crimes may be thought more properly to belong to another Court. But it sometimes happens that they are said to be sprinkled with the Plague of Heresy, because they are suspected of it, and therefore must be inquisited upon account of their Intention. Amongst these first occur those who read and retain Books prohibited upon account of Heresy. These are numbered amongst suspected Persons, and there are several severe Edicts of the *Roman* Pontiffs against them.

Pius V. published a Bull upon the Festival of *Cæna Domini*. In the first Chapter are excommunicated all Hereticks and Shismaticks, of whatsoever Name or Sect, and all Favourers, Receivers, and Believers of Hereticks, and those who any wise knowingly read, keep in their Houses, print, or in any wise defend, for any Cause, publickly or privately, under any Pretence or Colour, and in general all who defend their Books, without the Authority of the Apostolick See. *Pius* IV. recalled all Licences of reading and keeping such Books, by his Constitution, which begins, *Cum pro munere*, March 24. 1564. By these Letters he commands, that all Persons shall deliver and consign over all condemned Books to the Inquisitors of the Cities where such Books are. In like manner those who retain them cannot be excused, even though they keep them locked up in a Chest, so that no one can see or read them, because all such Excuses are cut off by this Sentence, and by the alledged Constitution of *Pius* IV. Again, those who print them are excommunicated; and also those who in any wise, or for any Cause, publickly or privately defend heretical Books, *&c.* and the Absolution of all such Persons is reserved to the Pope. Compeg. in Zanch. c. 34.

And that all manner of Leave of reading even the least Thing in a Book condemned for Heresy, may be cut off, they declare that they understand not only printed Books, but even Manuscripts and Parts of them, which they thus expound. He who reads that Part of the Books of Hereticks, Sousa *Aphor. Inquis. l.* 1. *c.* 21. §. 8. *&c.*

that

that are divided into Tomes, which doth not professedly contain Heresy, is
not accounted to read a Book prohibited by the Bull *Cæna*, even tho' the other
Tomes should be heretical. But if a Tome contains Heresy, or treats of
Religion, and it be divided into several Books, he who reads one of the
Books of such a Tome, is said to read a Book prohibited by this Bull, even
though the particular Book doth not contain Heresy, nor treat of Religion,
and is bound up separately from the others. Yea, 'tis enough to say that a
Person hath read a prohibited Book, if he only just runs it over with his Eyes,
adverting to the Things written in it, though he doth not mention one Word
of it with his Mouth. And yet, which is strange, they add, that he who by
Memory recites a prohibited Book, though he doth it with an evil Inten-
tion, is not accounted so to read it, as to incur the Censure pronounced against
such who do; so observant are they of the Letter of the Law; though at
the same time he incurs the Censure of the Bull, who reads a Book prohibi-
ted by it, though he doth not do it with an ill Design, but out of pure Cu-
22. riosity, or to confute the Errors of Hereticks. But to a Man's incurring the
23. Penalty of Excommunication, 'tis necessary that he should knowingly read it.
So that Ignorance excuses, but not when 'tis gross and affected, *viz.* when a
Person pretends not to know that the Author of a Book was an Heretick,
although he knew the Book treated of Religion, or that the Book treated of
28. Religion, although he knew the Author to be an Heretick. He who keeps
the aforesaid Books either in his own, or another's House, whether he under-
stands the Book or not, whether it be the whole or a part, even so much as a
33. single Leaf, whether he keeps it to read, or only for Curiosity and Orna-
34. ment's sake, or to exchange for other Books, or to wrap up what he sells with
the Leaves of it, incurs the Excommunication of the Bull. Likewise he who
causes it to be printed, defends it, praises it, says 'tis not fit to be burnt or
prohibited, or hinders its coming to the Inquisitors Hands.

36. These are all suspected concerning the Faith, and may be punished by the
30. Inquisitors as suspected. But if any one doth not deliver an heretical Book
to the Inquisitors, but burns it by his own Authority, he is not suspected of
Heresy, though he falls into Excommunication; because *Julius* III. by a Con-
Carena, stitution, beginning, *Cum meditatio cordis*, commands, that such Books shall
p. 2. *t.* 10. be really and effectually delivered up to the Inquisitors. When any one de-
n. 46. livers up a Book to the Inquisitors, he must be interrogated by them whence
39. he had it. He who keeps an heretical Book, which hath not the Author's
Name, is himself reputed the Author, unless he discovers his Name, and
41. whence he had the Book. If any bring the Books of Hereticks, prohibited
either for Heresy, or false and suspected Doctrine, to any Country of the
Faithful, they are Favourers of Hereticks, incur Excommunication, have all
their Goods confiscated, and if they are mean Persons, are whipped; but if they
are of the better Sort, they are banished at the Pleasure of the Inquisitors.
But these are not the only Punishments used. Tyranny prepares the Way
42. for greater Cruelty. If there arises a vehement Presumption of Heresy, up-
on account of any one's reading, retaining, defending, or printing the Books
of

of Hereticks, and other additional Circumstances, they can make use of the Torture to find out the Truth.

The Circumstances are such as these. If the Persons inquisited are learned. Secondly, If the Books contain Heresies. Thirdly, If they have kept and read them a considerable Time, and with Care, and have imported them from distant Countries. These Things render the Person vehemently suspected, and he may be tortured concerning his Intention and Belief of heretical Propositions, and his Accomplices, from whom he had the Books, and may be forced to abjure upon account of the vehement Suspicion, and be banished at the Pleasure of the Inquisitors. Such who write out the Books of Hereticks, in order to print and publish them, and such who sell Paper and Ink for such Writing and Printing, if it be knowingly, are Favourers of Hereticks, and may be arbitrarily punished. Nor is he free from Punishment who reads and retains the Book of an Heretick, professedly containing Heresy, or treating of Religion, although he doth it with a Design to confute the Errors of it, and the holy Office is apprised of such Design. For Instance, if an House be searched, and prohibited Books are found in it, and at the same time such Writings as recite the Passages of such Books, and confute the Errors of them; although such a Person is free from all Suspicion of Heresy, and must not therefore be tortured or made to abjure, yet he is to be punished, and falls into the Excommunication of the Bull *de Cæna*, because he keeps the said Books without Leave, and by his own Authority, but must therefore be absolved from it again.

Carena, *p.* 2. *t.* 10. *n.* 44.

Sousa 43.

Carena, *n.* 28, 29.

This Interdict of reading prohibited Books is so universal, that it comprehends even the Clergy themselves, and as most contend, the Bishops and very Cardinals, who cannot read the said Books without the Pope's Licence; because all Licences and Privileges were revoked by *Julius* III. in a Constitution, beginning, *Cum meditatio*; and afterwards by a Constitution of *Paul* IV. beginning, *Cum futurum*; and of *Pius* IV. *Cum pro munere*; and by a Constitution of *Gregory* XV. published *Dec.* 30. 1623. beginning, *Apostolatus officium*; and finally by a Constitution of *Urban* VIII. published *Ap.* 11. 1631. this Revocation was often confirmed. Hence it is that this Penalty is appointed against the Clergy who retain and read prohibited Books, that they are vehemently suspected, may be deprived of the active and passive Voice, suspended from divine Services, deprived of the Offices of Reading, Preaching, *&c.* and farther be enjoined Fastings, Pilgrimages, *&c.*

As to the Inquisitors, some will have them not to be comprehended in the Bull; others, that they are as well as others, unless they have particular Leave from the Pope himself, or the Congregation of the Cardinals of the holy Office, who alone have the Power of giving this Licence, and not this unless it be in full Congregation, or at least not without the major Part of the Cardinals be present. And even this their Power some so far restrain, as to contend that the College of Cardinals cannot grant it during the Vacancy of the See. But whatever the Power of the Cardinals Inquisitors General in this Case is, 'tis limited by an express Exception of the Books of *Charles Molinæus*,

12, 13.

9.

Sousa, l. 1. c. 21. §. 59.

næus, the reading of which the Pope only can allow; according to the Con-
§. 64. stitution of *Clement.* VIII. beginning, *Apostolicæ sedis autoritati*, published *An.* 1602. But in *Portugal* the Inquisitors General may, by the Concession of *Paul* IV. to Cardinal *Henry*, *Dec.* 10. 1560. grant Leave to the Inquisitors and other Persons of approved Life and Religion, if they are proper, and skilful and learned in Divinity, and not at all suspected, to read any prohibited Books whatsoever, for this Reason only, to enable them to oppose and refute Here-
§. 57. ticks. The same Power that is granted to the Inquisitors, is also understood to be granted to the Deputies of the Inquisition in the Kingdom of *Portugal*. Because, as they enjoy the Privileges of Inquisitors, and have a decisive Vote in Causes, and are Judges in Causes of Heresy, and can punish Hereticks, as well as burn their Books, they may read the same prohibited Books, which the Inquisitors themselves are permitted to read. This they may with much greater Reason do, who are of the Council of the supream Senate of the Inquisition.

CHAP. XV.

Of POLYGAMISTS.

Carena, p. 2. t. 5. §. 2. POlygamists are those who marry several Wives at once. The Tribunal of the Inquisitors takes Cognizance of their Cause, because they are suspected of Heresy, and are presumed to think wrong concerning the Sacrament of Matrimony, and to hold it lawful to have several Wives at once.

§. 10. n. 55. When a Polygamist is in the Jayls of the holy Office, and he is known to be the self same Person, either by his Confession, or by Witnesses, and when his Crime is proved, he is asked, Whether he truly believes that it is, and hath been lawful for a Christian Man, after the Evangelick Law, to marry several Wives at once? If he answers affirmatively, he is taken for a formal Heretick, and is to be punished as such. But if he answers negatively, and like a Catholick, denying that he had any heretical Intention, but was rather enticed to a second Matrimony by the Lust and Concupiscence of the Flesh, he must be put to the Torture concerning his Intention, that the Judges of the Faith may certify themselves what the Polygamist truly thinks concerning the Faith, because the Crime of Heresy is secret, and lies hid in the Mind. This is peculiar to this holy Office; though, according to the Laws of it, they rightly apply the Torture. For since the Fact which the Criminal confesses, or of which he is convicted, may be committed without any Error of the Mind, but for some other Cause, for Instance, Concupiscence, the Criminal is tortured concerning his Intention and Belief of those Things which he hath done. And thus we see, that 'tis a smaller Crime in the Church of *Rome* to marry two Wives thro' Lust and carnal Concupiscence,

cupiscence, contrary to the Dictates of Conscience, than from some Error of the Mind, and with a Conscience that doth not condemn the Fact.

Polygamists are suspected of Heresy. In *Spain* they are only lightly suspected, and therefore, according to the general Custom of *Spain*, they must abjure only as lightly suspected. But in the supream Tribunal of the *Roman* Inquisition, they are vehemently suspected, and must abjure as such. §. 11.

Yea, such who marry a second Wife, being ignorant that the first is dead, but yet bring Witnesses to prove that they had no Wife, although their actual Polygamy is not certain, yet they must abjure as vehemently suspected, and be condemned to the Gallies. *Carena* gives us an Instance of a certain Person of *Bologna*, who had married his first Wife there, and afterwards, having examined Witnesses, to prove he never had a Wife, married a second at *Naples*, being ignorant whether the first was dead. This Man was brought before the Pope by the sacred Congregation, *Octob.* 19. 1620. and being first put to the Torture concerning his Intention, he was forced to abjure as vehemently suspected, and condemned to the Gallies for five Years. Because, though his actual Polygamy was not certainly proved, yet, as to himself, he had consummated the Crime. n. 59.

But if any one, during the Life of his first Wife, betroths another, he is only lightly suspected, and must therefore only abjure as such. And they give this Reason of the Difference; because, in this Case, there is no actual Abuse of the Sacrament, but only an evil Disposition of Mind to abuse it.

After Abjuration these Polygamists are enjoined various salutary Penances by the Inquisitors, such as Fastings, Prayers, and the like, after which, he who hath married two Wives, is condemned to the Gallies for five Years; and if he hath produced false Witnesses to prove the Death of his former Wife, for seven Years and more, at the Pleasure of the Inquisitors, and is commanded to return to his first Wife. If they are of the ordinary sort of People they are generally beat, and half their Effects confiscated. And in some Places they have an infamous sort of a Mitre put on their Heads, and are afterwards beaten. In *Spain* they are condemned to the Gallies for ten Years. If any one hath married thrice or more, he is more grievously punished, and condemned for a longer while to the Gallies. Thus at *Rome*, *May* 18. *An.* 1597. four Polygamists were condemned to the Gallies in the Church of St. *Mary supra Minervam*, by the supream Tribunal of the *Roman* Inquisition, two of them for seven Years, who had married three Wives, and the other two for five Years, who had married two. §. 13. n. 61.

CHAP. XVI.

Of those who celebrate and administer the Sacrament of Penance, not being Priests.

Sousa, *l.* 1. HE who celebrates Mass, not being in Presbyters Orders, is subject to
c. 32. *n.* 7. the Judgment of the Inquisitors, and opposes in Fact the Catholick Verity, according to the Constitution of *Gregory* XIII. beginning, *Officii nostri.* The Evil of this Crime, according to *Sousa*, reaches to Idolatry, because those who thus celebrate, make the Faithful of Christ to adore Bread and Wine, as though it were the true Body and Blood of our Lord.

In like manner he who is no Priest, and yet hears Confessions, and gives Absolution, is said to abuse the Sacrament, and greatly to injure his Neighbour.

Carena, Such are vehemently suspected of Heresy, because they think, at least as
p. 2. *t.* 11. to the very Fact, that other Persons besides Priests may be the Ministers
§. 1. of those Sacraments.

Such Criminals are to abjure as vehemently suspected, and are then delivered over to the secular Arm to be punished with Death; but are first degraded
§. 6. *n.* 30. from their Orders if they are in any. Thus *An.* 1636. and the following, two of these Criminals were delivered over to the secular Court at *Naples*, and by Order of the holy Council first hanged, and then burnt.

§. 7. *Urban* VIII. commanded by a Letter of Cardinal *Mellinus*, to the Inquisitor General of *Portugal*, *March* 5. 1622. that Criminals confessing, or convicted of this Crime, should be absolutely delivered over to the secular Arm, and punished with Death. But in as much as before these Letters they were not punished with Death in *Spain*, according to the Constitutions of *Gregory* and *Clement*, so *Sousa* affirms, that he never saw this Punishment inflicted in
Sousa, *l.* 1. the Kingdoms of *Spain*, after the said Letters of Cardinal *Mellinus*. But this
c. 32. *n.* 13. was the Method of Punishment there generally made use of, *viz.* that if the pretended Priest was a Layman, or vile Person, he was beat, and sent to the Gallies, and enjoined some spiritual Penances. Or if he was a Person of Credit, or a Religious, he was sent to the Gallies. If of such Quality as that he could not be sent to the Gallies, he was banished; and, if in any Order, suspended from it the whole Time of his Banishment. If the Offence was attended with any aggravating Circumstances, they add other Punishments according to their Quality.

We have an Instance to this Purpose in the Book of Sentences of the *Tholouse* Inquisition, *fol.* 122. A certain Countryman called *Rolland*, believed he had a Power from the Lord to celebrate Mass, and to consecrate the true Body of Christ from common Bread, and the true Blood from Wine mixed with Oyl and Salt, in a wooden Bowl that had a Foot to it, which he used instead of a Chalice. And thus he every Day sacrificed secretly in his own House,

House, upon a Coffer covered over with a Linnen Cloth, and often communicated of that Bread, believing it to be the true Body of Christ. After four Years he was thrown into Prison, and was very difficultly prevailed with to abjure his Error. But whilst he was in his Imprisonment, he was found to have relapsed into the same Error, and to have repeated this Ceremony. But before he was punished as a Relapse, he died in Jayl, without a Confession of his Sins, and the Sacrament of the Eucharist. The Inquisitors commanded his Body to be taken up and burnt.

Raynald gives us another Instance of one, who did not indeed celebrate or administer the Sacrament of Penance as a Priest, though he really was none, but who said he was a Bishop, though he had not the Pope's Bull, and as such consecrated Priests. And because he was made an Example of extream Cruelty, I will here relate the Matter exactly as I find it in his Annals.

" *James* the Priest, a false Minorite, born in the Dutchy of *Juliers*, forged " the Pope's Bull, and declared in the *Netherlands* that he was a Bishop; " and although he had not been ordained a Bishop, he consecrated Priests " by a false Ceremony in several Dioceses of *Germany* and the *Low Countries*. " At length he was convicted of his Wickedness, and the Magistrates of *Utrecht* " thought fit, not to condemn him to the Flames, that he might be quickly " consumed, but to be gradually burnt by boiling Water, that so they " might conquer his Obstinacy, because he most impudently refused to " acknowledge his Crime. But being gradually let down into the boiling " Cauldron, and overcome with the Extremity of the Pain, he detested his " Wickedness, and pray'd that he might receive a milder Punishment. His " Judges being moved with Compassion, ordered him to be taken out of the " boiling Cauldron, and then to be beheaded." *Heda* tells the same Story in fewer Words, in the Life of *Florentius*, the fiftieth Bishop of *Utrecht*. " A certain Person of the Profession of St. *Francis*, took upon him the Character " of a Priest and Bishop, and of Suffragan to Bishop *Florentius*. And having " for a long while performed all sacred Offices, it was at last discovered, that " his Character and Letters were forged. Upon this he was deprived, and " condemned to be put in boiling Water. But as soon as ever he was thrown " into it, he moved, by his Cries, the Compassion of the Bishop, and was " immediately taken out, and being beheaded, obtained the Favour of Bu- " rial. Most of those who were consecrated by him, were reconsecrated by " some other Bishop, whilst others returned to the World and married, all his " Acts being null and void."

In the Records of the Chapter of St. *Saviour*'s at *Utrecht*, in the forecited Book, *fol.* 105. & *seq.* this very Story is to be read, and the Sentence against the said *James* is added; and because it gives us a just Account of the Custom of that Age, I will here faithfully transcribe it, as I find it in the said Book.

" In the Year of our Lord 1392. *Sept.* 30. one *James*, of the Order of the " Friars Minor, a Presbyter, born in the Dutchy of *Juliers*, was verbally " and actually degraded, in the Manner under-recited, in the City of *Utrecht*,

" upon a certain Scaffold built of Wood, in the Market-place of the City, " which they call *Noede*, because he assumed to himself, by certain false A- " postolick Letters which he had forged, the Title and Name of the Bishop " of *Laubatch*, and being for some time taken as a Suffragan to the Bishop of " *Utrecht*, had presumed to celebrate and exercise the lesser and greater Or- " ders, and other Episcopal Functions in the said Bishop's Diocese, and for " ten Years before that in the Dioceses of *Treves*, *Mayence*, and *Strasburg*. After " his Degradation, he was delivered over as a Laick to the *Scultet* and *Sca-* " *bines* * of *Utrecht*, who were present, and received him into their Court; and " by their Sentence, *Florentius*, Lord Bishop of *Utrecht*, presiding in the " said Place, the said *James* was condemned to be burnt with Fire, in a Caul- " dron, made ready for that Purpose near the Scaffold. But he was at last " graciously taken out of the Cauldron, and beheaded in the same Place.

" And therefore the aforesaid Lord *Florentius*, and the six under-written " Bishops, more being met together, and each of them robed in their *Pon-* " *tificalibus*, and seated on the aforesaid Scaffold, Master *Arnold Pot*, in their " Stead, and at their Command, pronounced this Sentence against the said " *James*.

In the Name of God, Amen. Florentius de Wevelichoven, *by the Grace of God and the Apostolick See, Bishop of* Utrecht, *and also by the same Grace,*

Arnoldus, *Bishop of* Capitolias.	Wenemarus, *Bishop of* Sibula.
Hubert, *Bishop of* Opinum.	Bertoldus, *Bishop of* Lindavv.
Andrew, *Bishop of* Moscow.	*and*, James, *Bishop of* Sarrepte.

Judges together in the under-written Affair. The Empire of Reason presiding in the Mind of the Judge, Justice sits upon the Tribunal in the Examination of Truth, and the Righteousness of the Judges, as a King upon the Throne, out of whose Mouth proceeds a two-edged Sword. By the terrible Aspect of which the Pleasure of a Man's own Will is scattered, and the criminal Appetite of the Wicked, without Respect of Persons, is limited under the Rule of the Law. For this hath been taken Care of by the Judge, from whose Countenance right Judgment proceeds, that Judges should be appointed in the World, who should love Righteousness, judge the Children of Men, and punish Offenders, according to the Measure of their Fault. Attending therefore with great Grief of Heart to thy heinous Wickedness, unheard of in all Ages, which thou hast committed, who art the Head of Scandal, and Rock of Offence, and with frequent Sighs and Groans recounting the most unhappy Boldness of thy Rashness, which even disturbs the Heaven, and makes the very Earth to tremble, we are forced, Justice demanding it, to proceed against thee, to that just Punishment and Revenge which thou hast deserved. Having therefore called on the Name of Christ, sitting on our Tribunal, and having God only before our Eyes, and having taken the Counsel of prudent and skilful Persons; whereas by thy Confession, and by other Proof, it evidently and legally appears to us, that thou hast forged Apostolical Let-

* The chief Magistrates and Officers of the City.

ters,

ters, and hast impudently and damnably presumed to usurp and ascribe to thy self rashly and fallaciously the Title of the Pontifical Dignity, and to confer on great Numbers of Persons the greater and lesser Orders, to perform Chrisms †, to consecrate Churches, Chapels and Altars, to reconcile Persons, and confirm them, by anointing them on the Forehead, and to exercise other Offices incumbent on the Ministry of the Pontifical Dignity, under a false and feigned Episcopal Title, in the Dioceses of Treves, Mayence, Strasburgh *and* Utrecht, *and in other Places, for the Space of ten Years and more, although thou wast not a Bishop, and in Fact art not, to the great Danger of thy own Soul, and the Souls of many others, and to the Injury and Contempt of the whole Catholick and Universal Church; even although we* Florentius *Bishop of* Utrecht, *out of the Motion of our Clemency, have thought fit to indulge thee for a long while with Space for Repentance, whilst thou hast been kept in Custody in our Jayl, that thou mightest study to appease the Anger of the most High, whom thou hast grievously offended with thy horrible Impieties, and with devout and frequent Prayers and Tears mightest endeavour to obtain his Mercy. But thou being ignorant to return to a sound Mind, and to bring forth those Fruits meet for Repentance, which we have long expected, with an hardened Heart, and obstinate Mind, hast not been afraid, we speak it with Grief, to despise the Space mercifully granted by us to thee for thy Repentance, even to this present Time, to the Loss of thy own Salvation. Therefore we* Florentius, *and the other Bishops above named, being specially and presentially called, and met together to this present Act, upon account of those Things which we have seen, heard and known, and do know and understand, do perpetually degrade, depose and deprive thee, being legally cited to the said Act, from all Ecclesiastical Orders, and the Priestly Office, as a Falsifier of Apostolick Letters, an Abuser of the Ecclesiastical Sacraments, an Enemy of Souls, a Destroyer of the Faithful, and a Transgressor of the sacred Canons, and we sententially condemn thee thus actually to be degraded, and at length degraded, to be left to the secular Court, and then to be punished without danger of Death.*

" After the aforesaid Sentence pronounced on him, being present, the degraded Person was carried down, and cloathed with the sacerdotal Vestments, carrying the Chalice, &c." After this follows a long Account of the Degradation in the said Book. But as I shall professedly treat of this Degradation in the following Book, I shall there together and at once give an Account of this whole Affair, and say nothing of it here, that I may not repeat the same Thing.

† *Crismata conficere*, is to consecrate the holy Oils which were used in the Church of *Rome*. These were principally two. One that was made of Oil and Balsom, which is the principal Sort. Those who were baptized were anointed with it on the Top of the Head; those who were confirmed on the Forehead, as were also those who were ordained. The other is Oil without any Mixture, consecrated by the Bishop, with which the *Catechumens* were anointed upon their Breast, Shoulders and Forehead, before their Baptism. Sick and possessed Persons also were anointed with the same Oil.

CHAP. XVII.

Of Soliciting CONFESSORS.

Sousa, *l* 1. *c.* 34. §. 1. Carena, *p.* 2. *t.* 6. §. 1.

BY these are understood such Confessors, who, in the Sacramental Confession, solicite and provoke, or attempt to solicite and provoke Women to dishonourable Actions. *Paul* IV. *An.* 1561. *Ap.* 16. published a Bull against such Persons, directed to the Arch-Bishop of *Seville*, beginning, *Cum sicut super*, and *Pius* IV. another, *Ap.* 6. 1564. and the supream Inquisitors General an Edict, approved by *Clement.* VIII. But those Bulls, and that Decree seem only to take place in *Spain*, because the Bulls were directed to the Arch-Bishop of *Seville*, and the Decree of the sacred Congregation expresly restrained to the Places of *Spain.* But in the Year 1612. in the Month of *April*, it was decreed by *Paul* V. that all the Inquisitors should be admonished to command the Confessors, to abstain from all and every sort of Solicitation, and to proceed rigorously against all those who did not. And finally, there is extant a Constitution of *Gregory* XV. published *Aug.* 30, 1622. beginning, *Universi dominici*, in which he confirms the Letters or Bull of *Paul* IV. and commands it to be firmly and inviolably observed, not only in the Kingdoms of *Spain*, but in all other Parts of the Christian World. And because the Words of that Bull about the Middle of it, *Whatsoever Persons, and whosoever they shall be which they solicite*, are general, from this Generality of the Words they conclude that they extend also to Confessors, who solicite Boys in the Sacramental Confession.

The Incontinence of the Priests gave Occasion to these Edicts and Bulls, *viz.* because, as the Words are in the Bull of *Paul* IV. *Certain Priests in the Kingdom of* Spain, *and in the Cities and Dioceses thereof, having Cure of Souls, or exercising such Cure for others, or otherwise deputed to hear the Confessions of Penitents, have broken out into so heinous an Iniquity, as to abuse the Sacrament of Penance in the very Act of hearing Confessions, and thus are not afraid to injure this Sacrament it self, and him who hath appointed it, the Lord God and our Saviour Jesus Christ, by enticing and provoking, or trying and procuring to entice and provoke penitent Women to lewd Actions, whilst they are hearing their Confession.*

Consalv. *p.* 185.

When this Bull was first brought into *Spain*, all Persons were commanded by a publick Edict, solemnly published throughout all the Churches of the Arch-Bishoprick of *Seville*, that whosoever knew or had heard of any Monks or Clergymen who had abused the Sacrament of Confession to these Crimes, or had in any manner acted in this vile Manner at Confession with their Daughter or Daughters, they should discover him within thirty Days to the holy Tribunal; and very grievous Censures were annexed to such as should neglect or contemn it. When the Decree was published, so large a Number of Women went to the Palace of the Inquisitors in the City of *Seville* only, to make their Discoveries of these most wicked Confessors, that twenty Secretaries, with

with as many Inquisitors, were not sufficient to take the Depositions of the Witnesses. The Lords Inquisitors being thus overwhelmed with the Multitude of Affairs, assigned another thirty Days for the Witnesses; and when this was not sufficient, they were forced to appoint the same Number a third and a fourth time. For as to Women of Reputation, and others of higher Condition, every Time was not proper for them to apply to the Inquisitors. On one hand their Conscience forced them to a Discovery through a superstitious Fear of the Censures and Excommunication; and on the other hand, their Regard to their Husbands, whom they were afraid to offend, by giving them any ill Suspicion of their Chastity, kept them at home; and therefore veiling their Faces after the *Spanish* Custom, they went to the Lords Inquisitors, when, and as privately as they could. Very few, however, with all their Prudence and Craft, could escape the diligent Observation of their Husbands at the Time of Discovery, and hereby possessed their Minds with the deepest Jealousy. However, after so many had been informed against before the Inquisitors, that holy Tribunal, contrary to all Mens Expectations, put a Stop to the Affair, and commanded all those Crimes which were proved by legal Evidence, to be buried in eternal Oblivion.

In the mean while this Crime, according to the Bulls and Edicts of the Popes, ought to be judged and punished before the Tribunal of the Inquisitors. These Edicts are generally so interpreted by the Doctors, as to comprehend §. 5.
those who solicite by other Persons, *viz.* when they solicite a Woman to be Procuress. For the Words of the Bull are, *To be committed either by themselves, or with others:* As also to comprehend all lewd Actions, whether compleat or not. As for Instance, when a Priest doth not solicite a Woman, but a Wo- Sousa, *l.* 1.
man her Confessor, and he not only yields to the Persuasions of the Woman, *c.* 34.
but at her Persuasion doth any dishonourable Action in the Confession §. 9.
it self.

It is required however, that the Solicitation be made in the Act of Sa- 31.
cramental Confession, or immediately before or after it, *i. e.* that no Act intervene between the Solicitation and Confession. Hence they do not count it 32.
an immediate Act, if a Woman coming to confess is prevented by her Confessor, and persuaded to put off her Confession to another Time, and when she hath changed her Intention of Confessing, is solicited by her Confessor. Such a one however, is comprehended in the Constitution of *Gregory*, because he solicites under the Pretence of Confession. Nor is an Act immediate, if a 33.
Woman desists from her Purpose of Confession after the Confession is actually begun, and says to her Confessor, she will not confess any more, but talk with him, and the Solicitation immediately follows in a long Discourse, provided there be no Pretence of Confession, if the Solicitation be made by the Confessionary; or if when the Confession is ended, the Confessor follows the Woman to her own Home, and there at any intervening Time solicites her.

'Tis therefore necessary to constitute an immediate Act, that it include Confession by some depending Circumstance or other. *Sousa* enumerates six 36, &c.
Cases, which include Confession. " First, If a Woman, not intending to so-
" licite

"licite her Confessor, but to make a full Confession, accuses her self, by "discovering a lustful Mind towards the Confessor himself, or towards any "other Person, and the Confessor says, We will talk of this when your Con-"fession is ended, and then immediately solicites her. Secondly, If a Con-"fessor persuades a Woman to confess to him with an Intention of soliciting "her, and immediately after the Confession tempts her to dishonourable "Actions. Thirdly, If immediately after Confession he says to the Peni-"tent, repeating the Sin confessed by her, since you have carnally lain with "another Person, do me also the Favour and lay with me. Fourthly, if a "Confessor solicites a Boy, after he hath confessed and absolved him, by car-"rying him immediately, after Confession, into his House or Chamber, to "give him a signed Copy of his Confession. Fifthly, If a Confessor enjoins "Penance to a Woman that hath confessed to him, *viz.* to be whipped na-"ked by the Confessor himself, and when the Penance is to be done, he him-"self whips her with his own Hand or with a Scourge. Sixthly, If a Confessor "persuades a Woman to shew her Privy Parts to him, which, in her Confes-"sion, she declared to be affected with a certain Disease."

'Tis the same with those, who, tho' they do not solicite in the very Act of Confession, yet do it in the Place appointed to hear Confession, according to the Constitution of the General Inquisition, before *Paul* V. *July* 10. 1614.

Carena, §. 9. Women thus solicited are admitted to prove this Offence, *viz.* if the Woman be of an approved Life, and the Confessor be given to the Sins of the Flesh; but not if the Woman be scandalous, and a Whore; and if they do not appear voluntarily before the Inquisitors, but are forced by their Confessors, upon their Refusal to absolve them, unless they discover the evil Confessor. Hence it comes to pass, that the Deposition of several Women is not n. 59. sufficient for the Conviction of a Confessor. Thus *Carena* reports, that by Order of the sacred Congregation of the supream *Roman* Inquisition, a Parish Priest at *Naples* was not accounted as convicted, though several Women deposed that he had solicited them, most of whom he had attempted by Touches and Signs, and one by Words. He was only tortured by Order of the same Congregation, and, confessing nothing, suspended for a Year from his Cure.

§. 12. However, the Deposition of a Woman only is not sufficient Proof for the Apprehension or Torture of the Confessor, unless he himself hath a bad Character, because they never proceed to torture, unless the Crime be half proved. So that as they teach, since two Women are not enough to make a full Proof, one cannot be sufficient for the half Proof.

§. 14. But if the Crime be half proved, the Confessor may be tortured, to make him confess the Act. If he confesses it, or is fully convicted of it, and denies an heretical Intention, he is to be tortured as to his Intention, *viz.* to discover whether he believed, that it was lawful to abuse the Sacrament of Penance to lascivious Actions, and to use the Sacrament as a Means to obtain such Purposes.

In

In *Spain* these soliciting Confessors are only lightly suspected, because the *Spaniards* consider it rather as proceeding from Lust than an Intention to abuse the Sacrament of Penance. But in *Italy* they are vehemently suspected; and therefore whereas in *Spain* they abjure only as lightly suspected, in *Italy* they abjure as vehemently. So *Carena* gives an Instance of a certain Confessor in one of the Cities belonging to the Territories of *Cremona*, who abjured as lighty suspected for this Crime of Soliciting, but was forced to abjure again as vehemently suspected at *Cremona*, by Order of the supream Tribunal of the City of *Rome*. §. 15. *n.* 75.

Besides salutary Penances, such as Fastings, Prayers, and the like, such Confessors are usually condemned to the Gallies for five or seven Years, to perpetual Imprisonment; yea, sometimes at the Pleasure only of the Cardinals supream Inquisitors, they may be delivered over to the secular Arm, as the Constitution of *Gregory* XV. plainly directs. They are also to be suspended for ever from hearing Confessions, to be deprived of their Benefices, Dignities, active and passive Vote, at the Pleasure of the Inquisitors. Such Confessors as are Regulars, may also be enjoined to be in the last and lowest Place amongst the Regulars of their Monasteries. Sometimes the Inquisitors must command, that the Sentence against a Regular Confessor shall be read publickly in the next general Chapter of their Religion, as a Terror and Example to others. §. 18.

[Yea sometimes, according to the Heinousness of the Offence, a more grievous Punishment is inflicted. *John Stock*, Notary of the Apostolick *Rota*, relates, in a Letter written at *Rome*, *October* 8, 1564. to *J. Hensberg*, a Divine of *Cologn*, a remarkable Instance of this. *These Wretches of ours are not so holy as they appear. They walk in the Likeness of Sheep, but within are ravening Wolves, and their pretended Sanctity is a double Iniquity. They are under the Influence of a strong Ambition. The* Venetians *ordered one of them to be burnt alive, by Command of the Pope. He had been Father Confessor to some Nuns in the Dominions of* Venice, *and had got twelve of them with Child, amongst whom the Abbess and two others had Children in one Year. As he was confessing them, he agreed with them about the Place, Manner, and Time of lying with them. All were filled with Admiration and Astonishment, taking the Man for a perfect Saint, he had so great a Shew of Sanctity in his very Face.* Epist. ad Belgas, Cent. 1. Ep. 66. p. 345. and Ep. 63. p. 316.]

In *Portugal* also the Crime of Sodomy belongs to the Tribunal of the Inquisition, by the Decree of *Gregory* XIII. *Aug.* 13. *An.* 1574. by which 'tis granted to the Inquisitor of *Portugal*, to proceed in the Crime of Sodomy, as in the Crime of Heresy, observing the same Manner and Form. By the Laws of the Kingdom of *Portugal*, Sodomites are punished with Death, and Confiscation of all their Effects, and their Children and Grandchildren become infamous. After the natural Death of a Sodomite, if the Crime hath not been proved, they cannot proceed against him, neither as to the Crime, nor Confiscation of Effects, although the Crime can be proved by legal Witnesses. Because Crimes, which are not particularly excepted, of Sousa, *Aphor. Inquis. l.* 1. *c.* 59. § 29, 30. §. 31.

which *Sodomy* is one, are extinguished by the Death of the Delinquent.
§. 32. Nor do they proceed against a dead Sodomite, nor confiscate his Effects, or
l. 2. *c.* 26. although he hath been convicted or confessed when he was alive. If such a
§. 30. one takes Sanctuary in a Church, he can't be taken out of it.

If we compare these Things with the Punishments of Hereticks, as related in the second Chapter of this Book, it will appear, that the Crime of Sodomy in the Kingdom of *Portugal* is esteemed a much smaller one than that of Heresy, because Sodomites enjoy Privileges which are denied to Hereticks. And yet it may happen, that a truly pious Man, who fears God, and is most careful of his eternal Salvation, may be accounted an Heretick by the *Portuguese* Inquisitors, whereas a Sodomite cannot but be the vilest of Men. But 'tis not at all strange, that by the Laws of that Tribunal, *Barabbas* should be released, and Christ crucified.

CHAP. XVIII.

Of one that is insordescent in Excommunication.

Carena, *p.* 2. *t.* 8. §. 2. A Man is said to be insordescent in Excommunication, who, after he hath been by Name declared Excommunicate, persists in that Excommunication for a Year. The Nature of this Crime requires Obstinacy of Mind, including the Contempt of the Keys. This they infer, when the excommunicated Person hath had Knowledge of the Excommunication, and taken no Care to obtain Absolution. For if within a Year he endeavours to obtain Absolution, though he should not actually receive it; or if there be any real Hindrance that prevents his Appearance, he is not judged guilty of Contempt.

§. 3. He who thus persists in his Excommunication, is accounted as confessed and convicted of the Crime for which he was excommunicated; nor is he to be any farther heard, unless he can demonstrate his Innocence with new Proofs. If the Crime for which he was excommunicated be of the Number of those, which do, *ipso jure*, infer Privation, he must be deprived of his Benefice for Insordescence. But if it be such a Crime for which the Delinquent is to be deprived of his Benefice, but not *ipso jure*, in such a Case he is also to be deprived for Insordescence.

§. 5. *n.* 19. He who thus persists in Excommunication, is violently suspected of Heresy. For if there be only a light Suspicion of Heresy against any Person, and if when cited he is obstinate, the Suspicion then begins to be vehement. If through Contumacy he continues in Excommunication for a Year, the vehement Presumption becomes violent, and thus he may be taken for an Heretick, and punished as such. Because, from thus persisting, there arises a Presumption of the Law, and *de jure*, by which the Crime of Heresy is sufficiently proved.

But

But that such a one may be condemned as an Heretick, he must not fail to be cited, in order to purge himself from the Suspicion of Heresy, because he continued for a Year in Excommunication. *n.* 21.

If such an excommunicated Person appears when the Year is elapsed, and desires to prove his Innocence, before he is declared an Heretick, he must be admitted to Trial. Yea, as some affirm, he must be heard even after he is declared an Heretick, and his Effigies burnt. *n.* 23. 24.

If when he appears, and doth not prove any legal Impediment, but only his Innocence as to the Heresy for Suspicion of which he was cited, altho' he is to be absolved from the Heresy, yet he is to be tortured to discover his Intention, upon account of a vehement Suspicion of his Contempt of the Keys of the Church, and must abjure as one vehemently suspected. If neither a legal Impediment nor his Innocence appear, he is to be dealt with as one vehemently suspected of Heresy, and of the Contempt of the Keys. § 8.

If he proves nothing, and is impenitent, or relapsed, he is to be left to the secular Court. If he is penitent he must abjure, according to some, as vehemently suspected; according to others, formally. Besides, wholesome Penances are to be enjoined him, and he may be condemned, according to the Nature of his Crime, to more grievous Punishments, and especially pecuniary ones.

CHAP. XIX.

Of Blasphemers.

There are two Sorts of Blasphemers. Some who do not utter heretical Blasphemies, who do not belong to our History; and others who throw out Blasphemies that are heretical, and who are therefore subject to the Judgment of the Inquisitors. *J. Royas* argues concerning them in this manner. "'Tis very often a Matter of Doubt in the Court of the Inquisition, "what Blasphemies may be said to be heretical, to make the Cognisance of "them belong to the Inquisitors. But, according to the common Custom, "and agreeable to Law and Reason, these Words are heretical, *I deny God*, "*I do not believe in God*. In *Spanish*, *Discreo de Dios*, *reniego de Dios*, *o reniego* "*de la fe*, *o de la cruz*, *o Crisma a que teng o en la trente*, *o reniego de la pu* "*ridad de nuestra senora*, i. e. *I do not believe in God*, *I deny God*, *or I deny* "*the Faith*, *or the Cross*, *or the Chrism*, *which I have received in my Forehead*, "*or I deny the Virginity of our Lady*. These Words are said to be heretical "Blasphemies, and the Inquisitors have Cognisance of them, because they "have an Infidel Signification, and Denial of the Faith, and are directly "opposed to a Confession of the Faith. But other Blasphemies, *viz. Pese a* Eymer. *p.* 2. *q.* 41. Royas, *p.* 2. *assert.* 12. §. 170.

 "*Dios*,

"*Dios, por vida de Dios, voto a Dios, malgrado aya Dios, o despecho de Dios,* " and the like, *i. e. let it trouble God, by the Life of God, I vow to God, God's* " *Curse on you*, or *God spite you*, are not heretical, because not opposed to a " Confession of the Faith, although they are absolutely Blasphemies. The

Carena, *p.* 2. *t.* 7. §. 8.

" Punishment of these belongs to the ordinary Judges." In *Italy* also 'tis " not reckoned Blasphemy: if any one says, *Al corpo di Dio, o dira vel pu-* " *tana di Dio becco*; *vel al dispetto di Christophero*, or *putana della virgine Gio-* " *vanna*; i. e. *Body of God, or he will say*, &c. *or in spite of St.* Christopher; *or the Whore of the Virgin* Joan.

'Tis disputed amongst the Doctors whether this be Blasphemy, *Al dispetto, che non vo dir di dio*, or, *putana, che no vo dir della V. M. In spite, not meaning God*; *or Whore, not meaning the Virgin* Mary; which some deny, and others affirm. But these are accounted heretical Blasphemies: *Dio partesano, & putana della Virgine*, i. e. *The Whore of the Virgin*, altho' the Word *Mary* is not pronounced; as is also this; *Dio becco diavolo*, if pronounced by any one who is accustomed to utter heinous Blasphemies against God.

§. 173.

According to *Royas*, " Heretical Blasphemy, though spoken conditional- " ly, is to be punished by the Inquisitors of the Faith; as for Instance, " *I do not believe in God unless I will strike you.* Because this conditional " Blasphemy contains in it a pure affirmative Impliciteness, *viz.* that if he " could not kill him without not believing in God, he was prepared wil- " lingly to do so.

§. 179.

They also proceed very severely against an execrable " Custom that hath crept into the Kingdoms of *Arragon* and *Valencia*, *viz.* " of swearing by the Members of God, which is greatly blasphemous; and " by the Members of Christ, which is great Irreverence, and from both " these there arises great Suspicion of Heresy." To these may be added that execrable Species of Blasphemy, related by *Arnold Albertinus*, in his Book *de Agnos. Assert. hæret. Qu.* 6. §. 21.

These Blasphemies, according to the Quality of the Words and Persons, and the Circumstances of Times and Places, are esteemed more or less wicked and horrible. *Pegna* " thinks those are to be reckoned amongst the greatest, " which are uttered against the most holy *Mary*, Virgin Mother of God. " And altho' Blasphemers regularly think differently in their Mind from " what they say, yet they belong to the Judgment of the Inquisitors, be- " cause by blaspheming they are thought to put on the Person of one who " thinks agreeable to what he himself had spoken; and since by the exter- " nal Act they give some Token of Infidelity, therefore certain Blasphe- " mies are subject to the Jurisdiction of the Judges of the Faith, that they " may understand, whether Blasphemers do really think as they speak."

Heretical Blasphemers are punished in this Manner by the Inquisitors. If the Blasphemy be very heinous, and the Blasphemer a mean Person, he is made to wear an infamous Mitre, hath his Tongue tied, and pinched with an Iron or Wooden Gag, is carried forth as a publick Spectacle without his Cloak, whipt with Scourges, and banished. But if he be a Person of better Condition, or Noble, he is brought forth without the Mitre, thrust for a Time

Time into a Monaſtery, and puniſhed with a Fine. In ſmaller Blaſphemies they are dealt with more gently at the Pleaſure of the Inquiſitors, *viz.* the Blaſphemer is condemned to ſtand, during divine Service, upon ſome Holyday or other, with his Head naked, without his Cloak, and Shoes, his Feet naked, a Cord tied round him, and holding a burning Wax-Taper in his Hands. Sometimes alſo they ſqueeze his Tongue with a Piece of Wood. After divine Service is over his Sentence is read, by which he is enjoined Faſtings and a Fine.

This Puniſhment however doth not take place as to a Clergyman, as *Carena* obſerves. For if a Clergyman was to appear without his Shoes, and with an Halter about his Neck, and thus ſtand at the Gates of the Church before the People, the Clerical Order, and the Miniſtry of the Clergy would ſuffer Diſgrace, and it would become the Wonder and evil Example to the Laity, if the blaſpheming Clergy were thus expoſed. He adds, that he never ſaw this Puniſhment inflicted by this Tribunal on noble Perſons, who, altho' they are not to be more mildly puniſhed for their Nobility, yet may be excuſed from ſuch Puniſhments which do of themſelves render Perſons infamous, and receive other Puniſhments in the room of them. *p. 2. t. 7. §. 17. n. 88.*

And becauſe ſuch who accuſtom themſelves to blaſpheme, though they do it in Paſſion, are vehemently ſuſpected of Hereſy, they are forced to abjure as thus ſuſpected. Thus *Diana* relates, that in the Inquiſition in *Sicily*, two Blaſphemers were made publickly to abjure, as vehemently ſuſpected, *Dec.* 16. 1633. in the Preſence of the Judge himſelf. But in ſmaller Blaſphemies, becauſe they are but lightly ſuſpected, they only abjure as ſuch. *Reſol. moral. Par. 4. tract. 7. reſol. 8.*

But in theſe Caſes the Inquiſitors moſtly act according to their own Pleaſure, who have an ample Power of judging according to the Nature and Heinouſneſs of the Crimes. *Gonſalvius* tells us of a certain Perſon who had a Quarrel with a Clergyman of *Ecya*, a City in *Spain*, who accidently ſaid, in the Hearing of others, that he could not believe that God would come down into the Hands of ſo profligate an Adulterer. The Vicar of the Ordinary fined him for the Speech. But the Clergyman not contented with this Revenge, afterwards accuſed him of Blaſphemy at the Tribunal of the Inquiſitors at *Seville*. Nor did the Fine to which he was before condemned by the Ordinary, prevent his being taken up by Command of the Inquiſitors, impriſoned for a whole Year, brought out in Triumph without Cloak or Hat, carrying a Wax-Candle in his Hand, his Tongue gagged with a wooden Gag, thus to puniſh his Blaſphemy; and being forced to abjure as lightly ſuſpected, he was fined a ſecond time. *p. 195.*

CHAP.

CHAP. XX.

Of DIVINERS, FORTUNE-TELLERS, *and* ASTROLOGERS.

Eymer. *p.* 2. *qu* 42. *Com.* 67. FOrtune-Tellers and Diviners are diſtinguiſhed. For there are ſome who act merely by the Art of Divination, ſuch as tell Fortunes, by looking into the Palms of the Hand, and judiciary Aſtrologers. Others who exerciſe Divination by Lots, with the Addition of ſome heretical Word or Fact: As if any one in telling Fortunes about Sweethearts ſhould deny God and the Sacraments of the Church; or ſhould mingle any of the Sacraments of the Church with his Fortune-telling, or thoſe Things which the Divines call Sacramental; as if he ſhould baptize Images, rebaptize a Child, or only anoint him with holy Oil, or incenſe the Head of a Perſon dead, or do any of the like Things to divine future Things, or uſe a Candle and holy Water to diſcover ſtolen Goods. All theſe Things render the Doer ſuſpected; for unleſs he had believed ſuch Sacraments or Sacramentals had ſome Virtue to effect ſuch evil Operations, he would not have uſed them for this Purpoſe. So that the Inquiſitors take diligent Care to interrogate them concerning their Belief, and if they deny the Intention they are tortured; and if they do not confeſs, they may be made to abjure as vehemently ſuſpected. They may alſo be puniſhed with Excommunication, Suſpenſion of Dignities, Whipping, Baniſhment, Impriſonment in Monaſteries, and other Puniſhments, according to the Quality of the Perſons. They may alſo be publickly brought forth wearing the infamous Mitre, or be diſgracefully tied to a Ladder near the Gates of the Church, and be baniſhed from the Dioceſe.

Carena. *p.* 2. *t.* 12. §. 12. As to Judiciary Aſtrologers, their Art is generally condemned as ſuperſtitious. But there is one Species of it, which the Doctors pronounce erroneous and heretical, *viz.* that which profeſſes to foretel the Myſteries of our Faith by the Stars. In like manner they are condemned as raſh Aſtrologers, who pretend they are able to foretel by the Stars certain Things concerning the State of the Church, Life or Death, or the Aſſumption of the chief Pontiff. Pope *Urban* VIII. by a Conſtitution, beginning, *Inſcrutabilis*, publiſhed *Ap.* 1. 1631. hath appointed, that Judiciary Aſtrologers, who make Judgments concerning the State of the Chriſtian Republick, or Apoſtolick See, or the Life of the *Roman* Pontiff, or his Kindred, or who, when made, keep them in their own Poſſeſſion, or ſhew them to others, or ſpeak of them by Words, beſides the Puniſhment of Excommunication which they ſhall, *ipſo jure*, incur, ſhall be puniſhed with Death as guilty of High-Treaſon, Confiſcation of Effects, and that if they are of the Clergy, they ſhall be puniſhed with Deprivation of their Benefices and Offices.

We have alſo Inſtances of very grievous Puniſhments inflicted on theſe judiciary Aſtrologers, one of which may be ſeen in *Bzovius*, under the Year 1327. *Bzovius* his Words are, "*Francis Aſculanus* was thrown into Jayl at *Florence*, "and

"and burnt, being by Name convicted of Blasphemies, Heresy and judiciary Astrology, as also of other damned Arts, and was condemned by the "Inquisitors of the Faith." After this he subjoins a Catalogue of the Crimes objected to him, from which it appears that most of them were taken from Judicial Astrology.

CHAP. XXI.

Of WITCHES.

WITH these Fortune-Tellers are properly joined Witches or Hags, which in *Italy* they commonly call *Strigiæ*, from their Resemblance to the Scritch-Owl, a Night and troublesome Bird, because they are reported to deal in their Witchcraft principally at Night, and to suck the Blood of Infants. Others call them Sorceresses, Charmers, and the like. They are said to have been a Sect of People, principally Women, who arose in *Italy* in the Year 1400. They gather together in certain Places near Towns and Villages, at particular Times, and especially the Night preceding *Friday*, when the Devil appears to them in a visible human Shape. When they enter into this Gang, they first, and before all Things, do, by the Devil's Command, deny their holy Faith and Baptism, the Lord God, and the blessed Virgin *Mary*, and after this trample under their Feet on the Ground, a Cross made by one of the Witches. After this they promise Allegiance between the Hands of the Devil, taking him for their Lord, and promise Obedience to him in all Things. As a Token of all this, they put their left Hand behind their Back, and touch the Devil's Hand, and offer him somewhat as a Mark of their Subjection. From henceforth they are said to believe the Devil to be their true Lord and God; and as often as they go to their nightly Assemblies, which they call the Play of good Fellowship, they worship the Devil appearing in human Shape, and by bowing their Head profoundly down, adore him as their true God. 'Tis reported of them, that they go to this Assembly or Play, truly and corporally, when awake and in their perfect Senses: If the Place be near they go on Foot; if distant, they are carried by the Devil through the Air.

Bernard. *Comensis de Strigiis.*

Many Authors have written largely of these Witches or Hags, *James Sprenger*, *Sylvester de Prierio*, *Bartholomew Spineus*, and others, who warmly contend that they are all corporally carried to these Night-Plays or Dances. *Francis Ponzinibius* is the only one amongst the Papists of former Ages, who opposes their common Opinion, and affirms that they are not corporally carried, but only deluded by Dreams and Phantasms.

They who contend for their being carried corporally, use these Arguments: Because all these Persons, whether Men or Women, confess as with one Mouth

and Tongue, that they every where obſerve uniformly the ſame Manner in every Thing, in the Denial of their Faith, Baptiſm, God, the bleſſed Virgin, trampling on the Croſs, and Promiſe of Obedience, by turning the left Hand behind their Back, and that this appears by the Confeſſions of all of them made before the Inquiſitors, every where throughout *Italy*, and by the written Proceſſes formed againſt them. That this Conformity argues they are not deluded by Dreams, becauſe theſe would vary as to Time and Place, according to the Variety of Cauſes, and the Quality of Perſons.

They add, That theſe Perſons have been ſeen and known by ſeveral Catholick People, as they have been going to, or returning from theſe Aſſemblies. Yea, that ſome who have been carried by the Devil to ſome diſtant Place, have, God ſo ordering it, been let down, and then found themſelves at a great Diſtance from their own Country. And farther, when theſe Witches confeſs before the Inquiſitors, and are converted to the Boſom of the Church, abjuring their Hereſy and Apoſtacy, they never after return to their Play; which could not be, if theſe Things were preſented to them only in Dreams or Imaginations, becauſe Dreams are not in the Power of Men. To which they add as a Concluſion, That many of theſe Perſons have for many Years paſt been delivered over by the Inquiſitors of heretical Pravity to the ſecular Arm, and burnt; which would never have been done, nor ſuffered by the Popes, unleſs theſe Things did really happen, and they were found to be in this Hereſy and Apoſtacy.

And although it may ſometimes happen that theſe Things may appear to them only in Dreams and Fancy, and that they are not really carried to this Play, being found at Home at the ſame time they thought themſelves preſent at it, they think it doth not at all follow from hence, that they are never corporally carried through the Air. And indeed although they never ſhould have been ſo carried, yet becauſe after they have been thus deluded by Dreams, they do not only firmly believe that they did theſe Things when they are awake, and in their Senſes, but do confirm and approve them, and ſtrongly believe that they have denied the Catholick Faith, adored the Devil as God, and do take him for their God, and that by doing ſo, they do not ſin, but do well, and perſevere in all theſe Things before the Inquiſitors, they therefore think them truly Hereticks, Idolaters and Apoſtates; becauſe thoſe who believe theſe Things do depart from the Faith.

I have no Inclination to ſpend any great Time or Labour in examining and refuting theſe Things, and enquiring what Truth there is in ſuch Accounts, and whether ſome Parts of them may not be admitted as true, whilſt others ought to be rejected as fabulous; nor how far credulous, fearful and ſuperſtitious Perſons may be deluded by vain Imaginations and Dreams, and what may be truly performed by Devils. Others have done this abundantly, and the doing it is foreign to my Hiſtory. And therefore I refer my Reader to *Simon Epiſcopius*, who hath very learnedly and ſolidly treated of this Matter. I ſhall only ſay in a few Words, that this Contract with the Devil, which is aſcribed to the Witches, is ſo horrible, that one would think it could never enter

Theol. l. 3. §. 3. *c.* 1. *p.* 143, &c.

enter into the Mind of any Perſon whatſoever. Moſt of the Things they are ſaid to do, deſerve no Belief, becauſe they don't ſeem poſſible to be done. Their Confeſſions are often extorted by the Violence of their Torture, and conceived in ſuch Words, that any conſiderate Perſon may ſee they are formed by the Inquiſitors themſelves, *viz.* to encreaſe the Honour of the bleſſed *Mary*, and of the Sacraments, as though the Devil had a particular Spight to the Worſhip of them. And this is ſo evident and manifeſt, that many of the Papiſts themſelves are perſuaded, that moſt of thoſe are innocent, whom, on this Account, they have ſeen condemned to the Fire. Yea, a certain Popiſh Divine publiſhed an entire Book, entitled, *Cautionis criminalis*, in which he tells us that many innocent Perſons were burnt; and this he affirms, not only from the Reports of others, but ſays that he accompanied ſeveral Women who were lead to Death, of whoſe Innocence no one now makes any doubt.

But to diſmiſs this Argument, I will now ſhew by what Method the Tribunal of the Inquiſition proceeds againſt them.

They prove that it belongs to the Inquiſitors of heretical Pravity to take Cognizance of the Sect of Witches, to proceed againſt them, and puniſh them as other Hereticks, becauſe they are themſelves Hereticks, Idolaters and Apoſtates. 'Tis alſo appointed by many Sanctions of the *Roman* Pontiffs, and particularly by that of *Innocent* VIII. writing to the Inquiſitors of *Germany*. Innocent, *Biſhop, Servant of the Servants of God, for the future Remembrance of the Thing. As we deſire, with our ſtrongeſt Affection, according to the Duty and Care of our Paſtoral Office, that the Catholick Faith may every where encreaſe and flouriſh, eſpecially in our Times, and that all heretical Pravity may be driven away far from the Borders of the Faithful, we willingly declare, and grant a new thoſe Things, by which this our pious Deſire may obtain its wiſhed for Effect; that all Errors being extirpated by the Miniſtry of our Operation, as by the weeding Hook of a careful Workman, a Zeal and Obſervance of the ſame Faith may be more ſtrongly impreſſed on the Hearts of the Faithful. We have indeed lately heard, to our great Grief, that in ſome Parts of* Upper Germany, *as alſo in the Provinces, Cities, Places and Dioceſes of* Mayence, Cologne, Treves, Saltzburg, *and* Bremen, *many Perſons of both Sexes, unmindful of their own Salvation, and deviating from the Catholick Faith, abuſe themſelves with he and ſhe Devils, and by their Incantations, Charms, and Conjurations, and by other horrid Superſtitions, Sorceries, and Exceſſes, Crimes and Offences, do cauſe, and procure to periſh, blaſt, and be deſtroyed, the Conceptions of Women, the young ones of Animals, the Fruits of the Earth, the Grapes of Vineyards, and Fruits of Trees; moreover, Men, Women, Beaſts, Cattle, Sheep, and other Animals of divers Sorts, as alſo Vineyards, Orchards, Meadows, Paſtures, Grain, Corn, and other Pulſe of the Earth, and do affect and torture Men, Women, Beaſts, Cattle, Sheep, with cruel Pains and Torments, inwardly and outwardly, and do hinder the ſaid Men from begetting Children, and the Women from conceiving them; Husbands from rendring due Benevolence to their Wives; and Wives from performing conjugal Actions towards their Husbands; and farther, do with an impious Mouth deny the Faith it ſelf, which*

Pegna, *ad lib. de Strig. Ber. Comenſis.*

they took on them when they received holy Baptiſm, and at the Inſtigation of the Enemy of Mankind, are not afraid to commit and perpetrate many other Enormities, Exceſſes and Crimes, to the Hazard of their own Souls, the Offence of the divine Majeſty, and to the evil Example and Scandal of many. And a little after, *We therefore, as in Duty bound, being compelled hereto by our Zeal for the Faith, being willing, by ſeaſonable Remedies, to provide againſt and remove all Impediments, by which the Execution of the Office of the Inquiſitors may be in any manner retarded, and that the Infection of heretical Pravity, and other ſuch like Exceſſes, may not ſpread their Poiſon to the Deſtruction of other Innocents, and that the Provinces, Cities, Dioceſes, and Countries, and other the aforeſaid Places, in the Parts of* Upper Germany, *may not want the neceſſary Office of the Inquiſition, do by the Tenor of theſe preſent, by our Apoſtolick Authority appoint,* &c. *that it ſhall be lawful for the ſaid Inquiſitors to execute the Office of ſuch Inquiſition in theſe Caſes, and that they ought to be admitted to correct, impriſon and puniſh the aforeſaid Perſons concerning the aforeſaid Exceſſes and Crimes, in all and every Thing, as though ſuch Provinces, Cities, Dioceſes, Countries, and Places, Perſons, and Exceſſes, were by Name, and ſpecifically expreſſed in theſe Letters.*

Theſe Letters were confirmed as to the greater Part of them, and ſent to Maſter *George de Caſali,* heretofore Inquiſitor at *Cremona,* by *Julius* II. and were afterwards extended to all the Inquiſitors of the Congregation of *Lombardy,* of the Order of Predicants, by theſe Letters of *Alexander* VI.

Alexander, *Pope, to our beloved Son* Angelus de Verona, *of the Order of Predicants, Doctor of Divinity, Inquiſitor of heretical Pravity in the Province of* Lombardy, *and to his Succeſſors. Beloved Son, Health and Apoſtolical Benediction.*

Having received Advice that divers Perſons of both Sexes, in the Province of Lombardy, *make uſe of divers Incantations and diabolical Superſtitions, and by their Witchcrafts and numerous Obſervations perpetrate many horrid Crimes, deſtroy Men, Cattle and Fields, bring in divers Errors, and cauſe many Scandals to ariſe. We have decreed, according to the Miniſtry of the paſtoral Office, committed to us from on high, to check ſuch Wickedneſſes, and to prevent, as far as with the Help of God we can, the aforeſaid Scandals and Errors, for this Reaſon give in Charge, and command you, as alſo your Succeſſors, to be appointed throughout* Lombardy, *concerning whom in theſe and other Things, we have full Confidence in the Lord, that you of your ſelves, aſſociating however ſuch worthy Perſons as you ſhall think fit to choſe, ſhall diligently make Inquiſition againſt the ſaid Perſons of both Sexes, and puniſh and check them according to Juſtice. And that you may the better execute this Commiſſion, we grant you full and entire Power againſt them, all Apoſtolick Conſtitutions and Ordinations, as alſo Grants and ordinary Conceſſions made poſſibly for a time, and all other Things whatſoever to the contrary notwithſtanding.*

Although it be more ſafe and decent in Proceſſes againſt Witches for the Inquiſitors to proceed, as in Cauſes of Hereticks, and to form their Proceſſes with the Aſſiſtance of the Dioceſans, according to the Diſpoſition of the Law, *Cap.* per hoc. *de hæret. lib.* 6. *Extrav.* ex eo. *de hæret. Clement.* I. *de hæret.* yet neverthleſs 'tis manifeſt from theſe Conſtitutions, that they may, if

if they will, proceed by themſelves, and that what they do or decree when they proceed alone, either in condemning or abſolving, is valid.

Here 'tis enquired, whether Witches, if they have confeſſed the Murthers of Children or Men, or any other Crimes to which the Puniſhment of Death is annexed by the Civil Laws, may be delivered over to the ſecular Court by the Inquiſitors and other Judges, although they repent? Some think, that notwithſtanding their Repentance, they ought not to be perpetually impriſoned as other Hereticks, but put to Death. But the greater Number are of Opinion, that ſuch of them who are willing with a pure Heart to return to the Boſom of the Church, are to be received. Becauſe the Cauſe of Hereſy hath nothing to do with murthering Children, or other Crimes committed by Witches, the Cogniſance of which doth not at all belong to the Inquiſitors. And therefore they believe the Judges of the Faith would do unjuſtly, if they ſhould deny to theſe Wretches, when willing to repent, the Benefit of Mercy and Abſolution.

But if theſe Witches are firſt taken up by the ſecular Judges for the Murther of Infants, or any other ſecular Crime, and when they are interrogated confeſs Hereſy, or any Thing that ſavours of Hereſy, of which the ſecular Judges have no Cogniſance, and, upon account of this Confeſſion, are delivered over to the Inquiſitors, in this Caſe when the Judgment concerning Hereſy is finiſhed, they teach that the Witch muſt be turned back to the ſecular Judge, that he may finiſh the Proceſs begun for other Crimes by the Civil Laws. For in ſuch a Caſe the Perſon is not ſo properly ſaid to be left to the ſecular Court, as to be reſtored to his former Judge, who upon account of the ſecular Crime, hath legal Juriſdiction over ſuch Witch. And this Obſervation is, as they ſay, according to the Conſtitution of *Pius* V. whoſe Words are theſe. *Moreover, let them, without any Delay, tranſmit all Perſons whatſoever impriſoned for any Offences, or by any Means whatſoever accuſed or denounced of any heinous Crimes, before the ſaid Office of the Inquiſition, ſuſpending the Cogniſance of all other inferior Crimes, to the ſaid Cardinals and Priſons of the Inquiſition, and there let them be kept till the full Cogniſance and Diſpatch of the Crime of Hereſy, and afterwards let them be ſent back to the ſaid Officials to expedite the Affair of their other Crimes.*

Yea farther, the Eccleſiaſtical Judges, if they have any legal Evidence, that one of theſe Witches, impriſoned by the ſecular Judge, is an Heretick, or ſuſpected of Hereſy, may compel the ſecular Magiſtrate to deliver her over to them to be judged for the Cauſe of Hereſy, and alſo to exhibit the Proceſſes and any other Writings, in order to their Underſtanding, whether there be any Thing contained in them relating to the Faith, and which may help the Judgment of the Inquiſitors. If the Magiſtrate refuſes it, they may compel him to all this by the Eccleſiaſtical Cenſure, *viz.* Excommunication, Suſpenſion and Interdict. Whereas the ſecular Magiſtrate cannot compel the Judge of the Faith to deliver up to him Criminals of either Sex, who have committed ſecular Offences, in order to puniſh them according to the Civil Laws, becauſe he hath no Juriſdiction over the Eccleſiaſtical Judge. But when the Eccleſiaſtical Judge hath puniſhed Offenders in his Tribunal,

then the secular Judge may punish the same Persons for Crimes cognisable in his Court.

They say there are two Ways of discovering these Witches. The first is the Confession, and Accusation of their Companions. For as these Women know one another when they are met at their Assemblies, they are able to detect each other. But that such Accusations may gain Credit, 'tis necessary that several of them separately, each making a Confession without the other's Knowledge, do agree in the several Circumstances of the Accusation, *viz.* as to the same Person, Time and Place, and that they do severally affirm the same Thing before the Person accused, one after the other separately, without the other's knowing of it. And yet at the same time they confess themselves, that this sort of Proof is very uncertain, because it may happen that the Devil may sometimes assume another Person's Shape, and appear in these Assemblies under that Form, in order to render her infamous, though at the same time she may be entirely innocent, and far from being concerned in such a Crime. For which reason they make use of another Way, *viz.* Conjectures and Presumptions to detect and discover them. And of these they have several, *viz.* their bewitching Children, causing Distempers and other Harms to Men and Women, to Cattle, and the Fruits of the Earth, the Grapes of Vineyards, and the Fruits of Trees. When therefore skilful Physicians by any Conjectures or Circumstances judge, that a Damage of this sort doth not happen from any natural Defect, nor from any natural intrinsick Cause, but from something external, and yet not from any venemous Infection; or when they see any Disease to be incurable, so that the sick Person cannot be relieved by any Medicines or Remedies, but rather grows every Day worse and worse, this they think is a sufficient Proof that 'tis the Effect of Witchcraft. In like manner, when any Men or Women, who are ignorant of the Art of Physick, prevent the Effects of such Witchcrafts, and heal Diseases, they say 'tis a Sign that these Things are done by the Co-operation of the Devil.

To this they add another Sign, which is greatly uncertain. When, say they, any Person, whether in a Quarrel or not, threatens another, and says, Because you have done to me so and so, I will do something to you that shall make you know whether you have done well by me or not; or I will make you repent it; or you shall see the ill Effects of it, or any Thing to the like Purpose. If the Thing comes to pass, 'tis a Sign that such an Effect is produced by the Assistance of the Devil, especially if it can't be known how such an Effect could otherwise follow. And therefore when such Threatnings are attended with their Effects, 'tis a very great Presumption and Reason to conclude, that the Person who utters such Threatnings is a Witch, and dedicated to the Devil by a Denial of the Faith. This is a sufficient Proof to proceed to Torture.

But certainly if such Signs be sufficient to put Persons to the Torture, what Innocence can be safe? 'Tis easy to extort a Confession from such who are most innocent, by the Cruelty of these Tortures, with which they punish without End or Measure, those whom they suspect, as the very Plagues of human

human Nature, even of Crimes they have never thought of, and of which they have never heard ſo much as the Deſcription. And therefore 'tis not to be wondered at, that the Inquiſitors, within the Space of 150 Years, ſhould have burnt 30000 Witches, as *Ludovicus a Paramo* ſays they have; adding: "The Inquiſitors have moſt ſeverely proſecuted theſe moſt outragious Furies, "who have thrown off all Humanity, eſpecially in the Kingdom of *Sicily*, "where, when I my ſelf, a few Years paſt, executed the Office of Inquiſi-"tor, many of this kind of Apoſtate Witches were diſcovered and pu-"niſhed." *De Orig. Inq. l. 2. t. 3. c. 4. p. 296.*

But as by this Method of Proceeding many notorious and manifeſt Acts of Injuſtice were commited, a certain Inſtruction was put into the Hands of the Inquiſitors in *Italy*, which *Carena* hath publiſhed, in which 'tis affirmed: "That it hath for a long time been obſerved in the Congregation of the "Univerſal Inquiſition at *Rome*, that ſcarce any Proceſs hath been ever "found to be rightly and juridically formed; that it hath been generally "found neceſſary to cenſure moſt of the Judges, and oftentimes to puniſh "them for illegal Vexations, Inquiſitions, Impriſonments, as alſo for ſeveral "evil and impertinent Methods uſed in forming Proceſſes, interrogating "Criminals, inflicting exceſſive Tortures; inſomuch that ſometimes unjuſt "and unrighteous Sentences have been pronounced, even of Death, or de-"livering Perſons over to the ſecular Arm. And it hath been found in "Fact, that many Judges have been too eaſy and ready to believe a Wo-"man to be a Witch for a light Proof, or rather none at all, upon which "Account they have omitted nothing, no not unlawful Methods, to extort "ſuch a Confeſſion from theſe Women, notwithſtanding there have been ſo "many Improbabilities, Differences and Contrarieties, that one would think "there could be little or no Debate about the Matter."

This *Carena* confirms by ſeveral Inſtances. In the City of *Logronno* in *Spain*, many Perſons were condemned for Witchcraft, and yet afterwards 'twas diſcovered that there were many Deceits in the Affair of their Condemnation, upon which Account the Effects of the condemned Perſons were not confiſcated, nor their Sentences fixed upon the Churches, but they were reconciled, and moreover declared capable of any Office of the Inquiſition. He gives another Inſtance of four Women, accuſed before the Ordinary by ſome others who had been condemned to Death, and hanged, who appealed to the Royal Council, to whom the Preſumptions againſt them appeared ſo very ſlight, that upon finding Sureties they were diſmiſſed, and never called into Queſtion afterwards. He reports in the ſame Place the Words of *Ferrerius*, who calls thoſe Judges, *Aſſaſſines, Judges that have no Fear of God, and leſs Love for Truth.* For this Reaſon certain Rules are preſcribed to the Inquiſitors, that they may proceed in this Affair with more Caution.

And firſt, before they begin the Proceſs, there muſt be ſome Certainty as to the Reality of the Crime, whether the Offence be of that ſort which leaves the proper Traces behind it. For it hath been obſerved, that ſome Judges have ordered certain Women to be puniſhed with Death, for con-

feſſing

feſſing a Crime which had never been committed. Thus *Ferrerius* reports, that a Woman confeſſed, that in the Night ſhe took a certain Infant from the Breaſts of its Mother, and carried it into the Aſſembly of the Witches, where it was killed by her and her Companions. But upon examining the Mother of the Infant, ſhe declared that no ſuch Accident had ever happened to it. Now the Reality of the Offence is proved by the Judgment of skilful Phyſicians, if they do clearly determine that the Diſeaſe is not natural, but poſſibly and probably a Witchcraft, and there be legal Proofs that the Witchcraft is committed by the Woman. After this the Inquiſitor may proceed to Impriſonment, firſt taking Advice of the Counſellors. After Impriſonment he ſearches her Houſe with a Notary, to ſee what Things they can find in the Coffers and Beds, both for the Aſſiſtance of the Perſon inquiſited, as whether there be Crowns *, Divine Services, Books of Devotion and the like; and for the Aſſiſtance alſo of the Fiſcal; as whether there be any Images of Wax run through with Needles, Powders, Ointments, Papers with Croſſes, Books containing Witchcrafts, Bones under Ground, Poyſons, Bones of dead Perſons, and all extraordinary Things found under the Threſhold, and in the Beds. This Search muſt be made by the Miniſters of the holy Office, in the Preſence of the Notary before the Inquiſitor. None of the Family of the Perſon accuſed of Witchcraft muſt be preſent. And here they adviſe that all unuſual Things found in Beds are not to be looked on as a Token of Witchcraft; for ſome ſuch Things may naturally happen; and therefore ſuch Things can cauſe but a very light Suſpicion, unleſs what they find in the ſaid Places are in themſelves, and, according to the common Uſe of Witches, fit to perform magical Operations. As for Inſtance, if half of an human Skull is found in the Bed or on the Pillow of the Witch, and another half exactly anſwering to the former, is found in her Cheſt, a very conſiderable Suſpicion would from hence ariſe againſt ſuch Perſon, as the prudent Judge ſhall determine, and certainly greater than if no ſuch half Skull had been found at all. Theſe and other Things, too tedious to mention, the Inquiſitor is commanded to take prudent Notice of, leaſt he ſhould proceed againſt any Perſon as a Witch, raſhly, and without juſt Cauſe.

CHAP. XXII.

Of JEWS, *and ſuch as return to* Jewiſh *Rites.*

THE Nation of the *Jews*, after the Deſtruction of the City and Temple of *Jeruſalem*, were brought into miſerable Bondage and Captivity, and diſperſed throughout the whole World. But being impatient of their

* Conſecrated Bread made like a Crown, or in a round Form.

Miſeries,

Miseries, they have often taken up Arms, and endeavoured to assert their Liberties. But having been subdued by most grievous Slaughters, they have at length laid down their Fierceness, and are forced to bear the Yoke. The Christians, partly through Fear of the Rage of the *Jews*, and partly through an intemperate Zeal for Christianity, have endeavoured either wholly to destroy by various Miseries this dispersed People, or to tire them out by the Grievousness and Length of their Miseries, and thus to compel them to profess the Christian Faith. Upon this account various Edicts have at different Times proceeded against the *Jews*. Some have proscribed them in the Countries where they have lived, others have deprived them of their Liberties, and reduced them to Slavery; others have stripped them of those Advantages and Privileges which their other Subjects have enjoyed, that by these Means they might at length be wholly extinguished, or wearied out by the Miseries they endured for their *Judaism*, renounce it, and embrace the Christian Religion. Very severe Edicts have been made against them, especially in *Spain*, where a very large Number of them dwelt, and were thought to endanger the Safety of the Kingdom.

In the Sixth Council of *Toledo* this Decree was published against the *Jews*. Simanc. tit. 35. §. 9. *We the holy Council, with the Consent of the most Christian Prince, and his Nobles, and most Illustrious Persons, publish this Sentence, pleasing to God, that whosoever shall enjoy the Kingdom for Time to come, shall not ascend the Royal Throne, before he hath promised upon the holy Sacraments, that he will suffer no Persons but Catholicks to dwell in his Kingdom. And if any one, after his Accession to the Kingdom, shall rashly violate this Promise, let him be* Anathema Maranatha *before the eternal God, and become Fewel for the everlasting Fire, and also all such who agree with him*, Can. 3. *Baronius*, under the Year 638, says this was principally decreed out of Hatred to the *Jews*, and bestows great Praises on it, and from hence concludes, *'Tis not without Reason that the Kings of* Spain *have had the Title of Catholick bestowed on them, being worthy of so high a Title, because they not only swear that they will be Catholick themselves, but that they will not suffer any one that is not a Catholick to dwell in their large Dominions.* But notwithstanding this Decree, a great many *Jews* remained in *Spain*, and soon encreased to such a Number, that they began to appear formidable to the Kings, and they were accused, whether right or wrong, of a Design to raise a Rebellion. Upon which account another Edict was made against them in the Seventeenth Council of *Toledo*, Can. 8. *Since the Perfidiousness of the* Jews *hath not only defiled the Coat of sacred Christian Baptism which they have received, but also attempted to conspire against the King and Kingdom; let them be deprived of all their Effects, and those perfidious Wretches themselves, their Wives and Children, and the rest of their Posterity, throughout all the Provinces of* Spain, *be subject to perpetual Slavery, and remain every where dispersed; and let such who have made Slaves of them, by no Means permit them to celebrate their Ceremonies.* Yet still the Posterity of the *Jews* greatly multiplied in *Spain*.

In the mean while the *Romanists* contend that the *Jews* ought not to be compelled by Force to embrace the Christian Religion against their Will, because

Religion

feſſing a Crime which had never been committed. Thus *Ferrerius* reports, that a Woman confeſſed, that in the Night ſhe took a certain Infant from the Breaſts of its Mother, and carried it into the Aſſembly of the Witches, where it was killed by her and her Companions. But upon examining the Mother of the Infant, ſhe declared that no ſuch Accident had ever happened to it. Now the Reality of the Offence is proved by the Judgment of skilful Phyſicians, if they do clearly determine that the Diſeaſe is not natural, but poſſibly and probably a Witchcraft, and there be legal Proofs that the Witchcraft is committed by the Woman. After this the Inquiſitor may proceed to Impriſonment, firſt taking Advice of the Counſellors. After Impriſonment he ſearches her Houſe with a Notary, to ſee what Things they can find in the Coffers and Beds, both for the Aſſiſtance of the Perſon inquiſited, as whether there be Crowns *, Divine Services, Books of Devotion and the like; and for the Aſſiſtance alſo of the Fiſcal; as whether there be any Images of Wax run through with Needles, Powders, Ointments, Papers with Croſſes, Books containing Witchcrafts, Bones under Ground, Poyſons, Bones of dead Perſons, and all extraordinary Things found under the Threſhold, and in the Beds. This Search muſt be made by the Miniſters of the holy Office, in the Preſence of the Notary before the Inquiſitor. None of the Family of the Perſon accuſed of Witchcraft muſt be preſent. And here they adviſe that all unuſual Things found in Beds are not to be looked on as a Token of Witchcraft; for ſome ſuch Things may naturally happen; and therefore ſuch Things can cauſe but a very light Suſpicion, unleſs what they find in the ſaid Places are in themſelves, and, according to the common Uſe of Witches, fit to perform magical Operations. As for Inſtance, if half of an human Skull is found in the Bed or on the Pillow of the Witch, and another half exactly anſwering to the former, is found in her Cheſt, a very conſiderable Suſpicion would from hence ariſe againſt ſuch Perſon, as the prudent Judge ſhall determine, and certainly greater than if no ſuch half Skull had been found at all. Theſe and other Things, too tedious to mention, the Inquiſitor is commanded to take prudent Notice of, leaſt he ſhould proceed againſt any Perſon as a Witch, raſhly, and without juſt Cauſe.

CHAP. XXII.

Of JEWS, *and ſuch as return to* Jewiſh *Rites.*

THE Nation of the *Jews*, after the Deſtruction of the City and Temple of *Jeruſalem*, were brought into miſerable Bondage and Captivity, and diſperſed throughout the whole World. But being impatient of their

* Conſecrated Bread made like a Crown, or in a round Form.

Miſeries,

Miseries, they have often taken up Arms, and endeavoured to assert their Liberties. But having been subdued by most grievous Slaughters, they have at length laid down their Fierceness, and are forced to bear the Yoke. The Christians, partly through Fear of the Rage of the *Jews*, and partly through an intemperate Zeal for Christianity, have endeavoured either wholly to destroy by various Miseries this dispersed People, or to tire them out by the Grievousness and Length of their Miseries, and thus to compel them to profess the Christian Faith. Upon this account various Edicts have at different Times proceeded against the *Jews*. Some have proscribed them in the Countries where they have lived, others have deprived them of their Liberties, and reduced them to Slavery; others have stripped them of those Advantages and Privileges which their other Subjects have enjoyed, that by these Means they might at length be wholly extinguished, or wearied out by the Miseries they endured for their *Judaism*, renounce it, and embrace the Christian Religion. Very severe Edicts have been made against them, especially in *Spain*, where a very large Number of them dwelt, and were thought to endanger the Safety of the Kingdom.

In the Sixth Council of *Toledo* this Decree was published against the *Jews*. Simanc. *tit.* *We the holy Council, with the Consent of the most Christian Prince, and his No-* 35. §. 9. *bles, and most Illustrious Persons, publish this Sentence, pleasing to God, that whosoever shall enjoy the Kingdom for Time to come, shall not ascend the Royal Throne, before he hath promised upon the holy Sacraments, that he will suffer no Persons but Catholicks to dwell in his Kingdom. And if any one, after his Accession to the Kingdom, shall rashly violate this Promise, let him be* Anathema Maranatha *before the eternal God, and become Fewel for the everlasting Fire, and also all such who agree with him*, Can. 3. *Baronius*, under the Year 638, says this was principally decreed out of Hatred to the *Jews*, and bestows great Praises on it, and from hence concludes, *'Tis not without Reason that the Kings of* Spain *have had the Title of Catholick bestowed on them, being worthy of so high a Title, because they not only swear that they will be Catholick themselves, but that they will not suffer any one that is not a Catholick to dwell in their large Dominions.* But notwithstanding this Decree, a great many *Jews* remained in *Spain*, and soon encreased to such a Number, that they began to appear formidable to the Kings, and they were accused, whether right or wrong, of a Design to raise a Rebellion. Upon which account another Edict was made against them in the Seventeenth Council of *Toledo*, Can. 8. *Since the Perfidiousness of the* Jews *hath not only defiled the Coat of sacred Christian Baptism which they have received, but also attempted to conspire against the King and Kingdom; let them be deprived of all their Effects, and those perfidious Wretches themselves, their Wives and Children, and the rest of their Posterity, throughout all the Provinces of* Spain, *be subject to perpetual Slavery, and remain every where dispersed; and let such who have made Slaves of them, by no Means permit them to celebrate their Ceremonies.* Yet still the Posterity of the *Jews* greatly multiplied in *Spain*.

In the mean while the *Romanists* contend that the *Jews* ought not to be compelled by Force to embrace the Christian Religion against their Will, because

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Religion ought to be voluntary, yea ſometimes they have been protected by the Papal Authority againſt the Injuries of ſome intemperately zealous Chriſtians.

Bzovius, A. 1200. §. 13. Thus Pope *Innocent* III. publiſhed a Conſtitution for not oppreſſing the *Jews*, in which there are theſe Things. *We ordain that no Chriſtian ſhall by Violence compel them (the* Jews*) againſt their Inclination and Will to come to Baptiſm. But if any of them ſhall, of their own accord, come over to the Chriſtians upon account of the Faith, after he ſhall have diſcovered his Intention, let him become a Chriſtian without any Reproach. Such a one cannot be ſuppoſed to have the true Faith of Chriſtianity, who is known to come to Chriſtian Baptiſm not voluntarily but unwillingly. Farther, let no Chriſtian without the Order of the ſecular Power, wickedly hurt their Perſons, or preſume by Violence to take away their Effects, or to change the good Cuſtoms which they have hitherto uſed in the Countries where they dwell. Moreover, let no one diſturb them with Sticks or Stones in the Celebration of their Feſtivals; nor let any one ſtrive to exact or extort from them undue Services, nor any but thoſe which they have been accuſtomed to yield in Times paſt. And that we may prevent the Wickedneſs and Covetouſneſs of evil Men, we decree that no one ſhall dare to mangle or leſſen the Burial-place of the* Jews, *or with a View to get Money, to dig up their Bodies when buried. But if any one, which God forbid, knowing the Tenor of this Decree, ſhall attempt to contradict it, and ſhall not make Amends for his Preſumption by condign Satisfaction, his Crime ſhall be avenged by the Puniſhment of Excommunication. It is our Pleaſure however that ſuch only ſhall enjoy the Defence of this our Protection, who ſhall not preſume to attempt any Thing to the Subverſion of the Chriſtian Faith.*

The Papiſts alſo farther contend, that although they oblige the *Jews* in *Spain* and *Portugal* to depart thence, unleſs they embrace the Chriſtian Religion, yet they do by no Means force them to become Chriſtians; and therefore *Oſorius* and *Mariana* blame King *Emanuel*, who kept the younger Children of the *Jews* againſt their Parents Will, and compelled the *Jews* by a ſevere Bondage to receive Baptiſm; and they ſay that this Action is neither §. 27. agreeable to Law or Religion. The Words of *Bzovius*, by which he blames this Action, under the Year 1497. are not to be omitted here. *What is this? Wouldſt thou force rebellious Minds, not bound by any Obligations of Religion, to believe thoſe Things, which they do ſo vehemently deſpiſe and reject? What, do you aſſume this to your ſelf, to reſtain the Liberty of the Will, and throw Chains upon ſuch unbridled Minds? This is an Impoſſibility, nor doth the moſt holy Deity of Chriſt approve it. What he deſires is a voluntary Sacrifice, and not ſuch a one as is forced from Men by an unlawful Violence; nor doth he command that the Mind ſhould be compelled, but that the Will ſhould be allured and invited to the Study of true Religion. Beſides, how can any one arrogate that to himſelf, which the holy Spirit only can effect in their Minds, who do not go on to oppoſe his Goodneſs to the End of Life? For 'tis he only who illuminates their Minds, and allures and invites them, and brings thoſe who do not reject ſo great a Gift with an obſtinate and ungrateful Heart, to confeſs and have Communion with Chriſt. Finally, who doth not ſee how unworthy 'tis to commit to Men of different Perſuaſions in Religion ſo many Myſteries, ſo*

many

many sacred Things, so great an Affair of divine Matters, and thus inconsiderately to afford an Occasion of Wickedness to those who despise the Discipline of Christ, and by this Means most unworthily to prostitute Religion it self under a Pretence of Religion? Can any one believe that these People speak seriously, who by so many Methods cruelly distress the *Jews*, that they may force them, thus broken by Miseries, of which they see no End, to embrace the Christian Religion? For 'tis owing to this that so many amongst the new Converts are found to be *Jews* in their Hearts. Hence 'tis that they themselves always suspect the new Christians, *viz.* such who are converted from the *Jews* and *Saracens*, and desire that their Posterity may be always separated from the Posterity of the old Christians.

Sometimes also they have openly persecuted the *Jews*, and compelled them to become Christians. *Sethus Calvisius* relates from *Cedrenus*, under the Year 722. that *Leo* the Emperor forced the *Jews* to embrace Christianity; but that they afterwards either renounced their Baptism, or shut themselves up in their Houses, and burnt themselves with all their Families.

But what shall we say to these Persons, who, though they teach that the *Jews* are not to be compelled to the Faith, yet plead for forcing, and actually force those who in their Judgment err concerning some Principles of Religion, whom they call by the infamous Name of Hereticks, to renounce their Errors, or rather the very Truth it self, by all manner of Methods, and every kind of Cruelties. *Conrad Brunus* resolves this Question, reciting a Decree of one of the Councils of *Toledo* concerning the *Jews*. *As to the* Jews, *the holy Synod commands, that no one of them shall be henceforwards compelled: For the Lord sheweth Mercy on whom he will have Mercy, and whom he will he hardens; for such are not to be saved against their Consent, but willingly, that the Form of Justice may be compleat. For as every one obeying the Serpent by his own free Will perishes, so every one who is called by the Grace of God, believing thro' the Conversion of his own Mind, is saved. So that Persons are to be persuaded, that by their own free Will and Power they may be converted, and are not rather to be compelled.* "Since this is determined concerning the *Jews*, why is it, says *Brunus*, that we compel Hereticks to return to the Unity of the Catholick Church, and do not rather leave them to their Will? There is a Reason to force the one, and not the others, as the same Council of *Toledo* declares; because Hereticks have been once Partakers of the Divine Sacraments, and received the Grace of Baptism, and been anointed with Oil, and partaken of the Lord's Body; and therefore they are to be compelled to hold the Faith they once received, that the Name of the Lord may not be blasphemed, and the Faith which they have received become vile and contemptible."

de Haeret. & Schismat. l. 3. c. 3. §. 18. Cap. de Judaeis 45. Dist.

Bellarmine explains this Matter more fully in Answer to the Objection, that Faith is free. He distinguishes Freedom, and says, *'tis capable of a double Sense. The first is a Freedom from Obligation, as when we say 'tis a Matter of Freedom to vow Chastity, to enter into Religion, but 'tis not Matter of Freedom to break one's Vow, or to go out of Religion. And in this Sense Faith is a Matter of Free-*

de Laicis, c. 22.

dom as to those who have never received it, as to any Obligation of human Law, though not as to the Divine, and therefore such Men ought not to be compelled. God will punish them. But as to such who have professed Faith in Baptism, Faith is not free from Obligation either of the divine or human Law, and therefore they compel Men to preserve it. Again, Liberty is so taken as to distinguish it from Necessity, and in this Sense 'tis free whether a Man will believe or no, &c. But that I may by the way refute this Foundation of Popish Persecution, I would observe that neither *Bellarmine* nor any of the Popish Crew will ever be able to shew, that by receiving Baptism, there is any Obligation whatsoever to human Laws contracted. The Vow is made to God, and the Person baptized obliges himself by Baptism to God only, and not to any Man, and therefore he receives Baptism in the Name of the Father, Son and Holy Ghost; and as our Saviour commands this Form of Baptism to be observed, he evidently shews that a Person hereby becomes devoted only to God; nor doth the baptized Person make any, either express or tacit Promise, by which he lays himself under Obligation to any Man. He professes himself a Disciple of Jesus Christ, binds himself to observe his Commands, and acquires a Right to those spiritual Blessings which God seals his Title to by Baptism. So that here is nothing to be found by which a Person binds himself to any Man, or renders himself obnoxious to human Punishment if he departs from the Faith, and from an holy Life. All Things in this Transaction are divine and spiritual. 'Tis from God he expects the Remission of Sins and eternal Life, if he observes those Things to which he binds himself in Baptism. If he breaks his baptismal Vow by Apostacy and Profaneness of Life, he will experience the divine Punishment. So that herein there is no Change made as to any human Obligation; nor is he by Baptism more bound to any Man whatsoever than he was before. It may be said perhaps, that by Baptism he is made a Member of the Church. He is so; but doth not on this Account come under any human Obligation, and cannot therefore be obnoxious to the Decrees of any Man, but to those only of God; which if he departs from, he immediately ceases to be a Member of the Church, and therefore the Church may declare that he is no longer a Member of her Body, and that therefore he hath no Hopes remaining of the Remission of Sins, and eternal Life. And the Church may pronounce just the same of those who have never been baptized, nor professed the Christian Faith. And therefore I conclude, that if any one falls from the Faith into an Heresy truly such, he doth not depart from any Obligation he is under to the Church, or to any Man, but from that which he is under to God, whose Word only he is bound to obey as the sole Rule of his Faith; and that therefore he is to be punished by God only with a spiritual and eternal Punishment, and not by any Man with a corporal Punishment. This by the way.

To return therefore to our Purpose. The Inquisition was not introduced to compel the *Jews* to the Christian Religion; because, say they, as they are not baptized, and have not professed the Faith of Christ, they cannot be said to be Hereticks or Apostates, and therefore are not subject to the Jurisdiction

risdiction of the Inquisitors. For the Church doth not judge of those that are without, and the Jurisdiction of the Inquisitors is only granted them against heretical Pravity and Apostacy. The Inquisition indeed in *Spain* is introduced against those, who being converted from the *Jews* or *Mahometans*, to the Christian Religion, return again to *Judaism* or *Mahometanism*, and give such Marks of that Apostacy as are capable to convict them. Such a one, as well as a Christian, that goes over to the *Jewish* Rites, may be punished by the Inquisitors as any other Heretick or Apostate. And in order to prove this Crime, they admit the Testimony of *Jews*; and when it is legally proved, they are by the royal Laws of *Spain* delivered over, as Relapsed and Impenitent, to the Fire.

Besides this there are other Cases in which the *Jews* are subject to the Inquisition, concerning which *Zanchinus de hæreticis*, and *Campegius* discourse, *Addit. ad* and which I shall here mention. "Because the Church doth not judge of Zanchin. "those who are without, some, without making any Difference, believe, *c.* 36. "that the Inquisitors can't proceed against the *Jews*, nor punish them. Others indeed grant, that the *Jews* are not against their Wills to be compelled to receive the Christian Faith, or Baptism, but yet that in certain "Cases they are subject to the Inquisitors. And to prove it they use this Distinction. A *Jew* either offends by Contempt of the Orthodox Faith, or "hindring the Office of the Inquisition. Or else as to their own Faith, or "otherwise not relating to the Premisses. In the two latter Cases this is "nothing to the Inquisitor. But if he offends as to the Contempt of the "Faith, by reproaching the Churches or Altars, or even the sacred Ornaments of the Church, and the like, or hinders the Inquisitor in the Dispatch of his Office, the Inquisitor may proceed against him, because the "Nature of his Offence is such as subjects it to the Court of the Church. "The Penalties by which such a *Jew* may be punished, are various. Christians may be forbid to have any thing to do with him, and this is a "most grievous Punishment to live amongst Men, and to be absolutely deprived of their Assistance. He may also be fined, and receive other corporal Punishment, *viz.* Imprisonment or Whipping."

There are yet other Cases, in which the *Jews* are subject to the Inquisitor, Campeg. if they relapse into *Judaism*, or if any one simply forsakes Christianity for *in* Zanch. *Judaism*, or if a *Jew* persuades a Christian to the *Jewish* Rites. All which *c.* 36. are mentioned in the Extravagant of *Gregory* X. to the Inquisitors of the Predicant and Minor Orders, in the Year 1271. *With Grief of Heart we have heard and relate, that not only certain Persons converted from the Error of* Jewish *Darkness to the Light of the Christian Faith, are known to return to their former Wickedness; but that many Christians denying the Truth of the Catholick Faith, have damnably gone over to the* Jewish *Rites. This is so much the more reprobate, as hereby the most holy Name of Christ is by a kind of friendly Enmity more securely blasphemed. Since therefore it becomes us to obviate by fit and speedy Remedies this damnable Plague, by these Apostolick Writings, we command all of you, that within the Times appointed you by Authority of the Apostolick See, to make Inquisition*

quisition against Hereticks, you do diligently and carefully enquire out the Truth concerning the Premisses, as well with respect to Christians as to Jews, *and that you endeavour to proceed against those, whom you shall find hitherto to have committed these Things, or who shall commit them for the future, as against Hereticks, the Favourers also, Receivers, and Defenders of Hereticks. And as to those* Jews, *who have persuaded Christians of either Sex to embrace their execrable Rites, and whom you shall find hereafter endeavouring to persuade them, let them undergo the deserved Punishment. Compel all Contradictors by the Ecclesiastical Censure, without allowing them any Appeal; calling, if there be Need, to your Assistance in this Affair, the secular Arm.*

There are also extant the like Records, in the Acts of the Inquisition at *Ferrara*, written in Parchment, which *Campegius* gives us, two of which I shall here only transcribe. The one is a Letter of *Latinus D'Ursinis*, Cardinal Legate of *Romagliona* and *Tuscany*, to the Inquisitor of *Ferrara*, *A.D.* 1280. and second of the Pontificate of *Nicholas* III. *Our Beloved in Christ*, Boniface *of* Ferrara, *heretofore a* Jew, *but now, through the Grace of Christ, converted to the Catholick Faith, hath declared to us, that the* Jews *dwelling at* Ferrara, *being stirred up against him by a malignant Spirit, endeavour to oppress him with grievous Persecutions, and invent wicked Things to his Destruction; on which Account he cannot dwell in the aforesaid City without Fear of Danger. Wherefore he hath humbly besought us, that we would take Care to provide him with proper Assistance in this Difficulty. Since therefore 'tis very unworthy, that such who forsaking the Error of* Jewish *Blindness, have returned to the Light of the Christian Faith, should suffer Persecution and Injuries from those who remain in Darkness it self, we command your Discretion, by the Authority we are invested with, that you receive under your Protection the said* Boniface, *and all others, who are converted to the Catholick Faith, in the City and Diocese of* Ferrara, *or who shall be hereafter converted; and that you take Care to protect and defend them from the aforesaid* Jews, *by restraining the said* Jews *from their Insolencies and Blasphemies against the Orthodox Faith, as to you shall seem convenient. Calling in, if Need be, in this Affair, the Assistance of the secular Arm.*

The other is the Answer of several Divines of *Padua*, *Bologna*, and *Ferrara*, to eight Articles proposed by the said Inquisitor of *Ferrara*, which, as 'tis abridged by *Campegius*, I shall here faithfully transcribe.

First, 'tis asked, *Whether a* Jew *baptized, and converted to the Christian Faith, becomes subject to the Office of the Inquisitor if he apostatises from the Truth of the said Faith to* Judaism, *and denies the Christian Faith which he hath received, and may by him be compelled and condemned as other Hereticks, if he contemptuously refuses to hold the Faith he hath received.*

The Answer of the wise Men of Padua, A. D. 1281. *to this Question is, That such a one is subject to the Office of the Inquisition, and that he may be proceeded against as well as any other Heretick. Those of* Ferrara *said the same,* viz. *that the Inquisitor can, and ought to proceed against baptized* Jews, *who have afterwards returned to* Judaism.

Secondly,

Secondly, Whether the Inquisitor may proceed against those by whose Help, Will, Counsel, or Assent, such or such a Christian apostatises, and denies the Faith of Christ, which he hath once received; and also against his Favourers, Receivers, and Defenders, whether they are Jews, *or of any other Condition and State.*

Those of Padua *replied, That the Inquisitor may and ought to proceed against such, as against Favourers, Receivers, and Defenders of Hereticks. Because, although* Jews *are tolerated by the Church in their Rites, yet by the Nature of their Crime, which they commit against the Church, they are to be restrained by Ecclesiastical Severity, and because he ought to forfeit his Privilege who abuses the Power intrusted with him. Those of* Bologna *say the same,* viz. *That such are to be severely punished. Yet they advise that such should not be proceeded against with the last Extremity, not to the shedding their Blood, nor to their being delivered over, or left to the secular Arm. But that they may and ought to be punished with a Fine, Banishment, Imprisonment, and also with an indirect Excommunication, and the like, as the Nature of their Offences require. Again, such ought to be proceeded against, as Favourers, Receivers and Defenders of Hereticks, who give Counsel, Assistance and Favour to such an Apostate, by keeping him in their House, feeding him, giving him Money, and accompanying him out of the City, so that what is done may not come to the Knowledge of Christians, or by admitting him to Judaise in a Synagogue, and the like. But these are to be punished less than the former, because these seem to be Favourers only; but the former, properly speaking, Makers of Hereticks. From these also the Truth may be forced by moderate Torture, if they will not themselves confess it, since there are Witnesses or violent Suspicions against them, that they have committed these or the like Things to the Prejudice of the Christian Faith. The Doctors of* Ferrara *subscribed to this Decision.*

Thirdly, Whether an Inquisitor, having violent Presumption against such Persons, that they do not speak the Truth, whilst he is making Inquisition against them in the aforesaid and other like Crimes, may force it from them by Torture, so as not to shed their Blood, by the secular Executor or Judge, and proceed against them to Canonical Punishments, if they are convicted, or confess. They of Padua *answered in the Affirmative, to which those of* Bologna *agreed. The Truth, say they, may be forced from them, if they will not confess it, by Punishments not extending to the shedding their Blood, by the secular Judge, at the Command of the Inquisitor, when there are legal Witnesses, or violent Presumptions that they have committed the aforesaid or like Things. Campegius* adds here, Observe, I beseech you, the Scruple of the Antients, as to the Punishments of Torture, because they would not have them used by the Ecclesiastical Judge, but by the secular one at the Command of the Ecclesiastical. But now this Scruple is entirely removed by *Cle. Multorum.* de hæret. §. *Duro tamen. Those of* Ferrara *gave the same Advice,* viz. *that the Inquisitors may and ought to proceed against such, by whose Help, Counsel, or Assent, any one hath apostatised.*

Those of Padua *moreover say, that the Truth may also be extorted by the same Punishments, if they deny that which is proved by several Witnesses, although the Witnesses who prove it say, that the aforesaid Crimes were committed by the Help, Counsel and Assistance of the* Jews *of such a City, and yet doth not severally express their*

their Names. And moreover, by such sort of Proofs they may be proceeded against without the Confessions of any others of them.

Fourthly, Concerning the Synagogue 'tis enquired, What must be done with such a one, wherein, by the Help, Will and Counsel of the Jews *who dwell in the Country, any Christians have been washed by the* Jews, *to the Prejudice of holy Baptism, and have denied the Faith by their Persuasions. Those of* Padua *answer, that it must needs be entirely destroyed, or deprived of the Privileges of Christians, which Sentence is approved by those of* Bologna *and* Ferrara.

As to a Person who offends in the said Cases within the Bounds of the Inquisition, where he lives, and hath an House within the said Bounds, in which he has been used to dwell with his Family; those of Padua *say, 'tis sufficient, that an Edict of Citation be sent to the said House, if the Person hath transported himself to foreign and unknown Parts; and if he doth not appear within the proper Terms assigned him, he must be proceeded against, and his Effects found therein be disposed of according to Law.*

In another Instance the Paduans *answer thus; That an Infant Child of a baptized* Jew, *left with its Mother, who continues in* Jewish *Blindness, must, whilst the Father is absent in remote and unknown Parts, be taken from her in Favour of the Faith, by the Church or Ordinary of the Place, or the Christian Prince, to whose Government 'tis subject, and brought up amongst faithful and unsuspected People, and baptized, unless the Child it self appears to be against it.*

As to another Instance, of a certain Person, against whom it was proved by several legal Witnesses, that being in a Jewish *Synagogue, and about to read the Law solemnly before other* Jews, *according to their Manner, it was objected to him by one present, that he was not worthy to read the Law, for that in such a Country he had been baptized; and he himself owned and confessed that he had been there baptized, but that he was returned to* Judaism, *and had performed the Penance which the* Jews *had appointed him for his Sin in being baptized, and that he would live and die from henceforwards as a* Jew; *those of* Padua *and* Bologna *say, that the Truth concerning these Things may be extorted from him by Punishments not reaching to the Effusion of Blood, by the secular Judge, at the Command of the Inquisitors.*

As to two other Persons, viz. *a Man and a Woman, who declare themselves, and act publickly as* Jews, *and yet it may be legally proved against them by Witnesses, that the Parents of each were Christians, and they themselves were baptized,* viz. *in this Manner. For the Father of this Man, who declares himself, and acts as a* Jew, *was himself first a* Jew, *but afterwards baptized, and so made a Christian, and married a Christian Woman for his Wife, by whom he had this Son, and caused him to be baptized, so that he lived many Years as a Christian. A long while after his Father returned to* Judaism, *and caused this Son, of whom we speak, to be circumcised, so that he afterwards always lived as a* Jew, *and what is more, caused his Mother, who was truly a Christian, to* Judaise, *who was at length buried in the Burial Place of the* Jews. *And as to the Woman who publickly declares her self, and acts as a* Jewess, *she also is proved to have been first a Christian after the aforesaid Manner. For her Mother was first known to be a* Jewess, *but was afterwards made a Christian, and married a Christian Man, upon whose Death she re-*

turned

turned to Judaiſm, *and married a* Jew *for her Husband. Of both theſe they of* Bologna *ſay, that they muſt proceed againſt them as againſt Hereticks, and that the Truth muſt be extorted from them by Puniſhments, if they will not confeſs it. But if they will neither thus confeſs the Truth, nor return to the Faith which they firſt received in Baptiſm, they may, after Confiſcation of their Effects, either be ſhut up in perpetual Impriſonment, or left to the ſecular Arm.*

In Teſtimony of which Thing the Lords Adviſers of Padua, Bologna *and* Ferrara, *have ſigned their diſtinct Opinions with their own proper Seals.*

Simancas alſo adds theſe Caſes, of which ſome do not much differ from the Caſes mentioned in the above Writing of *Ferrara.* *Tit.* 35.

" If a *Jew*, *Mahometan*, or any other Perſon receives, defends or favours " Hereticks, or hinders the Inquiſitors, or obſtructs their Office, or ſhould " keep in his Poſſeſſion the Books of Hereticks, he may be puniſhed by the " Inquiſitors. Alſo by one of the Extravagant Conſtitutions of *Nicholas* IV. " Power is granted to the Inquiſitors of taking Cognizance of the Crimes of " *Jews*, as often as they offend againſt the Old Teſtament, or induce any " Chriſtian to *Judaiſm*, or circumciſe him, or compel him to deny the Ca- " tholick Faith."

Pope *John* XXII. alſo, as *Bzovius* relates under the Year 1319. §. 9. by a Letter N°. 190. renewed the Conſtitutions of *Clement.* IV. and other his Predeceſſors, and by ſeverer Laws encreaſed the Power given to the Inquiſitors againſt them ; commanding that they ſhould gather together and burn all the Books of the *Talmud*, and puniſh thoſe who were convicted of execrable Blaſphemies. In the Month of *December* following, by the Command of Friar *Bernard Guido*, Inquiſitor of heretical Pravity, the Books of the *Jews* called the *Talmud*, were as many of them as could be found in the Poſſeſſion of the *Jews*, burnt at *Tholouſe*, after it had been declared by ſworn Examiners, skilful in the *Hebrew* Tongue, that they contained Errors and Blaſphemies againſt the Lord Jeſus Chriſt, and his moſt holy Mother the Virgin *Mary*. Tholoſ. *Inquiſit. fol.* 136.

In the Kingdom of *Valencia* the Inquiſitors may proceed againſt the *Jews*, or *Saracens*, or other unbaptized Infidels dogmatiſing amongſt Chriſtians, eſpecially againſt the *Alfaquins*, or thoſe who hinder the Office of the Inquiſition, or circumciſe Boys, or are Receivers of Hereticks, or who compel any one to deny the Faith, or perſuade them to uſe their Rites or publick Ceremonies. But yet others think that a *Jew*, who ſays to a Chriſtian, *La fede voſtra e fede di* * *Cazzi*, i. e. Your Faith is the Faith of a ——— —— or who throws Naſtineſs upon the Croſs which is carried in the Litanies, ought not to be puniſhed by the Inquiſitors, but by the ſecular Judge. Royas, *p.* 1. §. 552.

And finally, *Gregory* XIII. *An.* 1581. publiſhed a Conſtitution, beginning, *Antiqua Judæorum improbitas*, by which he granted Power to the Inquiſitors of heretical Pravity, freely to proceed againſt the *Jews* in the following Caſes. " If they deny Matters of Faith common to them and Chriſtians. If " they invoke Devils, or ſacrifice to them. If they teach any Chriſtian *Comp. Bul. par.* 2. *p.* 178.

* *Cazzi* is an obſcene Word.

"-theſe

"these Things, or bring them to them. If they ſpeak heretical Blaſphemies. If they pervert a Chriſtian from the Faith. If they hinder Infidels from coming over to the Faith of Chriſt. If they knowingly receive an Heretick, or give him Aſſiſtance. If they keep heretical Books, or Talmudical, or any other *Jewiſh* Books any ways condemned. If they deride the ſalutary Hoſt, or the Croſs, or the like Things, or Chriſtians. If they keep Chriſtian Nurſes, or ſhall compel them from the Day in which they have received the Sacrament of the Euchariſt, to throw their Milk into the Jakes."

But eſpecially in the Kingdom of *Spain* and *Portugal* the Inquiſition is introduced to detect and puniſh thoſe who, being *Jews*, have embraced the Chriſtian Religion, and witneſſed their Profeſſion by the ſolemn receiving of Baptiſm, and have afterwards turn'd again to *Judaiſm*.

Pegna, *Com.* 25. *in* 3. *part.* Eymerick.

There are ſeveral Signs by which it may be collected, that a Perſon is revolted to *Judaiſm*. Anciently the converted *Jews* themſelves allowed, that it might be known by certain Marks which of them were not ſincerely converted to Chriſt, but cheriſhed *Judaiſm* in their Heart in a certain Ordinance made in the Name of the King of *Spain*, about the Year 653. *Leg. del Fuero Jurgo. lib.* 12. as follows.

To our moſt clement and ſerene Lord, King Roceſuind. *All we* Hebrews *of the City of* Toledo *and* Spain, *your Glory, who have under-written our Names, or put our Marks. We well and juſtly remember that we were compelled to think it our Duty to write our Opinion in the Name of King* Chintillan, *of holy Memory, for preſerving the Catholick Faith, even as we have done. But becauſe the Perfidiouſneſs of our Obſtinacy, and the Antiquity of our Error that we have derived from our Fathers, hath ſo poſſeſſed us, that we have neither truly believed in Jeſus Chriſt the Lord, nor ſincerely kept the Catholick Faith: We now therefore willingly and readily promiſe your Glory by this our Ordinance, as well for our ſelves, as for our Wives and Children, that we will never hereafter mix in any* Jewiſh *Obſervations or inceſtuous Cuſtoms. And as we are baptized, we will never more in any ſort be joined with the* Jews *in an execrable Society; nor will we, according to our Cuſtom, ever be joined with them by Nearneſs of Blood, even to the ſixth Degree, by an inceſtuous Pollution in Matrimony or Fornication. We will not enter into Marriages with our Race in any ſort, neither our ſelves or our Children, or any of our Poſterity, but as to both Sexes we will henceforwards marry only with Chriſtians. We will not work the Circumciſion of the Fleſh. We will not celebrate the Paſſover and Sabbaths, and other Holy-days, according to the Rite of* Jewiſh *Obſervation. We will not obſerve the Difference or Cuſtom of Meats, nor do any of all thoſe Things, which the Uſe and abominable Cuſtom and Converſation of the* Jews *doth. But we believe with a ſincere Faith, grateful Mind, and entire Devotion in Chriſt, the Son of the living God, according to the Evangelick and Apoſtolical Tradition, and him we confeſs and adore. We do alſo truly hold and ſincerely embrace all the Cuſtoms of the holy Chriſtian Religion, as well as to Holy-days as to Marriages and Foods, and all other Obſervations, without reſerving to our ſelves any Object of Oppoſition, or fallacious Argument, by which we will do again thoſe Things which we have*

have denied to do, or not sincerely fulfil those Things which we have promised to observe. And as to Swines Flesh we promise to observe, that if we cannot possibly eat it through Custom, yet that we will, without Contempt or Horror, take and eat Things that are dressed with it. And if in all these Things which are above mentioned, we shall be found Transgressors in any the least Point, or shall presume to act contrary to the Christian Faith, or shall delay to fulfil in Word and Deed what we have promised agreeable to the Catholick Religion: We swear by the same Father, Son and Holy Spirit, who is one in Trinity, and the true God, that whosoever of us shall be found a Transgressor of all or any one of these Things, he shall perish with new Flames or Stones. Or if Goodness shall reserve him for Life to your Glory, he shall lose his Liberty, and forfeit all his Substance, and shall be for ever a Slave to any Person you shall appoint. And whatsoever you shall command to be done as to him or his Effects, you shall not only have free Power to do it by the Power of your Kingdom, but by the Engagement of this our Ordinance. This Ordinance was made March 21. *in the happy Sixth Year of the Reign of your Glory, in the Name of God, at* Toledo.

But *Pegna* is of Opinion, that a more certain Suspicion of secret *Judaism* arises from other observed Rites of the *Jews, viz.* from too intimate conversing with them, by frequenting the Places in which they dwell, and especially the Synagogues, by the Observations of the Sabbaths, and many other Things, than from their Abstinence from Swines Flesh, which may be either unpleasant to the Taste, or nauseous to the Stomach. This Consideration particularly affects the new Converts, who, through Custom, cannot be supposed easily to relish Swines Flesh, or other Meats forbidden them before their Conversion. But this doth not hold as to their Children and Grandchildren, and other Descendants, who can't be supposed to abstain from these Things for any other Reason, but their Reverence and Approbation of this accursed Sect, because the Reason of Custom cannot be pleaded in their Behalf, though it may as to those who are themselves converted.

Amongst other Signs of secret *Judaism*, the Name that a Person takes is accounted one. For they say 'tis customary amongst the *Hebrews* frequently to give the same Name to those who come over or return to their Sect, which they had before they were baptized. If therefore any Person, after Baptism, in which he put off his old *Jewish* Name, and took the Name of some Saint, according to the Custom of Christians, shall take it again, or some other Name familiar and usual amongst the *Jews*; it will be a Presumption that he approves *Judaism*.

In how many, and in what Cases the *Jews* and other Infidels are subject to the Power of the Inquisitors, *Gregory* XIII. hath largely declared, *An.* 1581. by a Rescript, beginning, *Antiqua Judæorum*, which shall be hereafter mentioned.

As to the Punishments of such offending *Jews*, their Crimes are distinguished into three Sorts. Some of them are common to them and Christians. Others are against the Christian or rather Popish Faith. And lastly, others against their own Faith, which are not to be treated of here. Carena, p. 2. t. 14. §. 18.

As to Crimes of the first sort, respecting them as well as Christians, such are declared Hereticks who deny God to be Almighty. If they confess that they said and believed this, they are compelled to abjure as for formal Heresy. If they confess they said it, but deny that they believed it, they must be tortured as to their Intention, and be made to abjure as well as Christians, according to the Degree of the Suspicion, whether light or vehement.

As to Crimes of the second sort, they are tortured only to get out the Truth, and discover their Accomplices. For in these Things they are not truly Hereticks; but because they grievously offend against the Christian or Popish Faith, they are usually punished in a very severe Manner; and in this Case they are not compelled to abjure, because the Church doth not compel them to the Faith.

The Punishments which the Inquisitors inflict upon the *Jews* who offend in the aforesaid Cases, are various, and lighter or heavier, according to the Nature or Degree of the Crimes, *viz.* Privation of all Conversation with Christians, Fines, perpetual Imprisonment, Whipping, and also to be delivered over into the Power of the secular Arm.

Finis Libri Tertii.

THE

THE HISTORY OF THE INQUISITION.

VOL. II.

BOOK IV.

Of the Manner of Proceeding before the Tribunal of the Inquisition.

CHAP. I.

How the Inquisitor *begins his Office.*

IT now remains that we give an Account of what relates to the Execution of the Inquisitorial Office. This will be a more difficult Task, because, altho' the Inquisitors are bound to certain Laws, yet many Things are left to their Pleasure. Besides, the very Application of the Laws to particular Cases, which come before the Inquisitors; and also the Method of proceeding and drawing a Confession from the Prisoners, depends very much on their Will. Hence it comes to pass, that altho' all the Inquisitors are directed by certain general Laws, so that one and the same general Method of Proceeding is observed by all, yet, as to many Circumstances, the Method is very various and different, which besides cannot be so fully explained, because the Inquisitors learn many Things rather by Use and Practice, than by Instruction and Precepts; especially considering that they oblige all Persons by Oath, whom they dismiss from the Prison of the Inquisition, to Silence; that the Secrets of the Inquisition, as tho' they

were the ſacred Myſteries of *Ceres*, may not by any Means be revealed. I have determined therefore faithfully to give my Reader whatſoever the Popiſh Doctors and the Inquiſitors themſelves have with great Labour gathered together from the Laws, Papal Bulls, and their Inſtructions, concerning the Method of Proceeding, and to illuſtrate the Whole by ſuch Examples as offer themſelves to me. And that I may omit nothing, I will trace this Matter from the very Beginning, *viz.* from the very firſt Moment in which the Inquiſitor begins his Office, down to the Acts of Faith, in which the Sentences are pronounced upon all the Priſoners, and actually put in Execution.

Direct. Inq. part 3. n. 1. When the Inquiſitor is firſt conſtituted by the Pope, he muſt preſent himſelf to the King, or temporal Lord of thoſe Territories, in which the Inquiſitor is deputed by the Apoſtolick See, and exhibit his Apoſtolick
2. Commiſſion. Then he muſt demand his Protection for himſelf, his Colleague, Notary, Servants and their Effects, and his Orders to his Officials to obey the Inquiſitor in apprehending Hereticks, their Believers, Receivers, Defenders, Favourers, and ſuch as are defamed for Hereſy, and that they do all and ſingular Matters that belong to their Office in making Execution againſt the aforeſaid, to extirpate heretical Pravity, and to extol the Catholick Faith, whenſoever, and as often as they are required by the Inquiſitor, or in his Name.

4. When he hath obtained theſe Letters, he muſt likewiſe exhibit his Apoſtolick Commiſſion to the Arch-Biſhop and Metropolitan of the Province to which he is deputed; as alſo to all the Biſhops and their Vicars, to whoſe
5. Dioceſſes he is ſent. After this he muſt ſhew the Letters which he hath obtained from the King or temporal Lord of the Place, to his Officials, and require of them, according to the Law of the Emperor *Frederick*, that at the Deſire of the Inquiſitor, or other Catholick Men, they will apprehend Hereticks, and when taken, ſtrictly keep them, till being condemned by the
6. Eccleſiaſtical Cenſure, they periſh with an accurſed Death. Finally, he takes an Oath from theſe Officials for their defending the Church againſt heretical Pravity, and that they will obey the Inquiſitor with all their Might, for
8. which End he ſummons them before him by Letters. If they appear, he
10. propoſes the Form of the Oath to them. If they conſent to take it, they muſt do it publickly in the Church, or in ſome other Place appointed for that Purpoſe, upon their bended Knees, and their Hands upon the Book of the Goſpels. If the Officials deſire Time to conſider, and refuſe after the Expiration of it to take the Oath, the Inquiſitor, a few Days after, muſt cite them before him, and demand of them to take the Oath, under the Penalty of Excommunication. If they appear within the fixed Term, and conſent to ſwear, the ſame Form of the Oath is ſhewn them. If they do not appear, after the ſaid Time is elapſed, they are declared excommunicate, and the Excommunication is ordered to be publiſhed in the Cathedral Church. After the denouncing the Excommunication, they are abſolved from the Sentence of it if they will take the Oath, and enjoined ſome hard

arbitrary

arbitrary wholesome Penance, as shall be most conducive to the Honour of the Faith. When their Absolution is given, they are denounced free from Excommunication. However, they cannot be absolved, unless they first take this Oath, at the Command of the Inquisitor. *I swear that I will obey the Commands of the Church.* Or thus: *I swear that I will stand to and obey thy Commands.*

But if they abide under this Sentence of Excommunication two or three Months, the Processes are aggravated, and they are commanded to be denounced publickly excommunicated in the aforesaid Churches, with lighted Candles thrown on the Ground, or put out in Water, and the Bells rung once or oftener in a Week or Day. If without being terrified by this Excommunication, they refuse to take the Oath, they are not only excommunicated, but all who have any manner of Converse with them, who eat, drink or talk with them. If nevertheless they persevere in their Contumacy, 27. their Lands are put under an Ecclesiastical Interdict. If after this they will 33. not take the Oath, they are deprived of the Honour and Office of Government, as infamous, Favourers of Hereticks, and suspected of the Faith, and are condemned to be never hereafter admitted to any publick Office or Dignity; and whatsoever they do after this is null, according to the Chap. *Ad abolendam.* §. *Statuimus.* Extra. de hæret. and Chap. *Ut officium.* §. *Statuimus.* lib. 6. And this Sentence is commanded to be published by those who have the Cure of Souls in the Cathedral and other Churches. If the City or Place acquiesces in the Sentence, and deprives such Persons of their Offices; others are chose in their Room, who, before they are admitted to the Discharge of their Office, are bound to take the Oath which the others have refused. But if the City doth not submit to the Sentence, but supports their Officials, tho' deprived of their Offices by the Inquisitor, he may cut it off from all Communication with other Cities, and deprive it of the Episcopal Dignity. But they think it better to acquaint the Pope with the Contumacy of such a City, that he may order in what Manner to proceed against it.

At this Day the Inquisitors in *Spain*, when they enter upon their Province Simanc. or City, where they never were before, must in the first place shew their t. 44. § 1. Letters of Delegation, by which they are created Inquisitors, to the Chapter of the greater Church, and Consistory of the City, that it may appear that they are Judges of the Causes of Heresy. 1 *Instruct. Hispal. cap.* 1. And such who have offended therein must be proscribed by the Inquisitors, Pegna, and apprehended and punished by the Royal Hand. *in direct.*

But if the Officials, terrified by the more grievous Denunciation of the In- *p.* 432. quisitor, take the Oath, they are freed from their Excommunication, but *n.* 16. receive an heavy Penance, which is always encreased, according as their Contumacy is longer or more aggravated. In their first Penance they are enjoin'd to stand in the Gate of the Church, or on the Steps before the Altar, on several *Sundays*, or Holy-days, whilst the greater Mass is saying, and there is a large Concourse of People, without Hat or Shoes, and to hold in their Hands a Wax Taper of a certain Weight, and to offer it to the

Priest when the Mass is ended. Or they must do this always, or at some certain Time, when it happens that the Inquisitor makes a general Sermon for the Faith. Other milder Punishments may be also thought of; for Instance, some larger Almsgiving, the building some holy Place, and the
n. 24. like. But if they persist longer in their Contumacy, there is somewhat added by way of Penance, which directly turns to the Honour of the Christian Faith.

n. 37. During these Transactions, whether the Oath be taken or not, the Inquisitor may and must appoint in every Bishoprick one Commissary of forty Years old, a religious or secular Clergyman, a wise and prudent Person, famous for Knowledge and good Manners, and zealous for the holy Faith, with a Power of receiving Denunciations and Informations or Accusations from or against any Persons whatsoever, and of proceeding, and doing other Things, which the Inquisitor himself, if present, could do.

CHAP. II.

Of the Promulgation of the EDICT *of* FAITH.

47. THE Commissaries thus appointed or not, the Inquisitor appoints a general Sermon, according to the Prescript of the Council of *Biterre*. Cap. 1. *And then calling together the Clergy and People, and propounding to them the Word of God, declare the Command that is given you, and the Cause of your coming, reading the Letters, by Authority of which you are to proceed, even as you know you ought to do.* And that there may be no Hindrance to the Offices of the Church, he must not appoint this Sermon on a solemn Festival, but on the common *Sunday*, excepting *Lent*, or the *Advent*; and must take Care that the Rectors of the Churches have these Letters of Indiction on *Sunday*, that the *Sunday* after they may ap-
50. point the general Sermon to be the *Sunday* following. And that the Solemnity of that Day may be the greater, all other Sermons on it must be suspended; and it must be notified to all the Heads of Religious Houses, and Indulgencies of forty Days promised to all who come to the Sermon. When the *Sunday* before that, on which the general Sermon is to be made, comes, the Inquisitor must admonish the Heads of Religious Houses, that two or four of each Religion be present at the said Sermon.

51. On the *Sunday* appointed, the Inquisitor makes the general Sermon to the People, in which he speaks concerning the Faith, commends it, and exhorts the People to the Defence of it, and the Extirpation of heretical Pravity. When the Sermon is ended, he admonishes the People, that 'tis their Duty to discover it to the Inquisitor, if they have known any Person that hath spoken or done any thing against the Faith, or who holds any Error. After

ter this Admonition he commands monitory Letters to be read from the Pulpit by his Notary, or ſome other Clergyman, by which all Perſons, of whatſoever Condition or State, Clergy or Laity, are commanded, under Pain of Excommunication, to diſcover to the Inquiſitor within ſix or twelve Days next following, any Heretick or Perſon ſuſpected of Hereſy that they know. These monitory Letters are an Edict of the Faith, and uſually read out of the Pulpit. I will here add, as what will give a Light to whatſoever I ſhall ſay of the Inquiſition, a Copy of it, not only of that which is publiſhed in *Spain*, but alſo of that which at this Day is publiſhed in *Italy*, tranſlated from the *Italian*. n. 52. n. 53.

A General EDICT *of the Inquiſition at* Cremona.

WE Peter Camporeus, *by divine Mercy, Cardinal Presbyter of St.* Thomas *in* Parione, *Biſhop of* Cremona, *Earl*, &c. *and we* Vincentius Peter Serravallenſis, *Predicant, D. D. and Inquiſitor General of* Cremona, *and of the Dioceſe thereof, eſpecially delegated by the holy Apoſtolick See againſt heretical Pravity.*

Deſiring, according as the holy Office conferred on us requires us, that the moſt holy Catholick Faith, without which no one can pleaſe God, may be preſerved pure and free from all heretical Contagion, we by the Apoſtolick Authority granted us, do command all and ſingular Perſons under our Juriſdiction, of whatſoever Condition, State, Degree, or Dignity, as well Eccleſiaſtical as ſecular, whatſoever it be, by Virtue of their holy Obedience, and under Penalty of Excommunication, latæ ſententiæ, *and other Penalties which the ſacred Canons, Decrees, Conſtitutions, and Bulls of the chief Pontiffs ordain, that within twelve Days enſuing, the four firſt of which we aſſign for the firſt Term, the four next immediately following for the ſecond, and the other remaining four for the third, laſt and peremptory Term, they do juridically diſcover and notify to the holy Office, or the Ordinary, all and ſingular Perſons whom they know, or of whom they have had Notice, or ſhall have Notice for the future.*

If any Perſons are Hereticks, or ſuſpected, or defamed for Hereſy, or Believers, Favourers, Receivers or Defenders of them; or who have, or do adhere to the Rites of the Jews, Mahometans, Saracens *or* Gentiles, *or who have apoſtatiſed from the holy Chriſtian Faith, or who have or do in any manner, expreſsly or tacitly invocate the Devil, or have done, or do him honour, or who have had any Part, or have, or do concern themſelves in any magical Trick, Necromancy, Incantations, or other like ſuperſtitious Acts, eſpecially with the Abuſe of any ſacred Thing.*

If any Perſons not being Prieſts, have with an impious Boldneſs, or do uſurp to themſelves the Celebration of Maſs, or have, or do preſume to adminiſter the Sacrament of Penance to the Faithful of Chriſt.

If any have, or do abuſe the Sacrament of Penance, contrary to the Apoſtolical Decrees and Conſtitutions.

If any have, or do hold ſecret Conventicles in the Matter of Religion.

If any utter heretical Blaſphemies againſt God, or his Saints, and eſpecially againſt the moſt bleſſed Virgin Mary.

If

If any do, or have hindred the Office of the holy Inquisition, or do, or have injured any Witness, Accuser, or Minister of it.

If any have, or do keep Books or Writings containing Heresies, or the Books of Hereticks, which treat of Religion, without Authority of the holy Apostolick See, or who have or do read, print, or cause them to be printed, or defend them, under any Pretence or Colour, or Books of Necromancy, Magick, or containing sorcerous Incantations and the like Superstitions, especially if with the Abuse of sacred Things.

Declaring, that tho' we do expressly specify as above the Cases which ought to be discovered, we do not exclude other Cases relating to the holy Office, which are always contained in the sacred Canons, Decrees, Constitutions, and Bulls of the chief Pontiffs.

And that no one can be absolved from the aforesaid Excommunication and Penalties, which the Disobedient incur, but by us or the supream Tribunal of the Inquisition at Rome, *nor shall be absolved, unless he shall first give Satisfaction, by juridically revealing the said Hereticks, or as above, those suspected of Heresy.*

And because much of the Service of God, and the private and publick Good, in these Particulars, greatly depends upon the Endeavours of the Confessors, we command all the reverend Confessors, that in the Administration of the Sacrament of Penance, they use all that Diligence in interrogating those who confess to them, concerning all the aforesaid Heads, which they shall think respectively necessary, both as to those who are principal Offenders, and those who are Partakers of, and any ways conscious to those Offences. And we command the said Confessors, under the said Penalty of Excommunication, latæ sententiæ, *and as above, that they do not presume to absolve those whom they shall find to have offended, or to be Partakers, or conscious, as above, in the aforesaid Particulars, because they have incurred those Censures which are reserved by the holy See, to its Delegates.*

Admonishing, that such Persons do not satisfy, nor are understood to satisfy these our Commands, who pretend to discover Delinquents by Papers or Letters without the Name or Sirname of the Authors, or by any other uncertain Method, because they may be absolutely secure, that they shall not be discovered, according to the Custom of this holy Office, and do not lay themselves under a Necessity of proving what they declare.

And that this our present general Edict may be known to all, and no one pretend Ignorance, we command all the reverend Arch-Presbyters, Curates and Rectors of Churches, subject to our Jurisdiction, or their Vicars, in Virtue of their holy Obedience, under Pain of Excommunication, that the first Holyday after they receive it, they shall be absolutely obliged to publish, read, or cause it to be read, at length, before the People, when they shall be met together in largest Numbers in their said Churches, and when published, cause it to be fixed up upon the principal Gate of the said Churches, or some other publick Place, where it may be seen and read of all; and this also we enjoin all the Priors of Monasteries.

Farther, 'tis our Pleasure, that under the same Penalties they shall be obliged to read it again before the said People, twice at least in a Year, viz. *upon one* Sunday *in* Lent, *and one in* Advent.

And that they may obey this our Commandment as they ought, they must have a Copy from the sacred Congregation it self, always fixed upon the Sacristies of their Churches.

According to the Desire which we have, that this our Jurisdiction may be preserved in that Purity of the Faith in which it now is, adhering to the above-mentioned Edict, and other Commands of the sacred Congregation, we command, under Pain of Excommunication, and other arbitrary Penalties.

That no Currier, Sailor, Muletier, or others, presume to carry Books either into or out of any City, or other Places subject to us, no not as he passes by, if he hath not a Catalogue of the Books subscribed by the Inquisitor, or other Person to whom it belongs, living in those Places from whence they come, or thro' which they pass, under Penalty of losing the Books, and other Punishments, according to our Pleasure.

Under the same Penalties and Loss of the Books, we command, that no Person, whosoever he be, do receive such Books when imported, or any ways brought in to this our Jurisdiction, nor open Boxes, Bales or Bundles, in which such Books are, nor carry them away from the Custom-House, without our Leave, or that of our Vicars, and till they have first given a Catalogue to the holy Office, or shewed them to it, if they have imported them without Licence.

That no Merchant presume to receive or send Books, under Pretence of Goods packed up in Bundles, Bales or Boxes, without due Licence, under Pain of Excommunication, Forfeiture of the Books and Goods in which they are packed up. And what is here said concerning the importing or receiving Books, is also to be understood of all Sorts of News Papers, Pictures and Almanacks, and such like Papers.

All the aforesaid Things we likewise command the Jews, *under the Penalty of fifty Pieces of Gold, the Forfeiture of Books and Goods as above, and others, to be respectively inflicted according to our Pleasure.*

We command all Booksellers in this our Jurisdiction, under the same Penalty of Excommunication, and other arbitrary Punishments, that they don't presume to sell Books bought of the Jews, *whether within or without the City.*

Printers also shall not, under the same Penalties and other arbitrary ones, print any thing without our Licence, except the Edicts and other like Matters of the Episcopal and secular Court, which are not to the Prejudice of the holy Office.

The Impost-Gatherers, Custom-House Officers, and Officers of Ports, shall not permit any Books to be imported or exported without a written Catalogue as above. And when any are brought to the Place of their Office without such written Catalogue, let them detain the Books, and be obliged to shew them to us or our Vicars. And this we command, under Pain of Excommunication, and other arbitrary Punishments.

And to give Credit to these Things, we have written this Edict, and signed it with our own proper Hand.

Dated at the Holy Office at Cremona, October 26, 1639.

P. *Cardinal* Camporeus *Bishop of* Cremona.
F. Vincent Peter, *Inquisitor of* Cremona.
Jerom Calcinous, *Chancellor*.

The Form of an EDICT of FAITH used in *Spain*.

Param. l. 3. q. 5. §. 43.

WE the Inquisitors of heretical Pravity and Apostacy, by that Apostolick Authority we possess, especially delegated on this Account to us in the Dioceses of N. *or* N. *&c. to all and singular, as well Clergy as Laity, Regulars as Seculars, of every State, Condition, Quality, Degree, Order, Religion, Dignity or Pre-eminence, exempt, or not exempt, to all and every one of you, to whom this our general Edict shall be known, Salvation in our Lord Jesus Christ, who is the true Salvation, and to our Commands, which are more truly Apostolick Words, firm Obedience, Submission and Observance. We make known to you, that the Licentiate or Doctor* N. *Promoter and Advocate Fiscal of this holy Office, hath appeared before us, and declared that it hath been long since known to us, and is very certain, that in many Places of this District and Territory, there hath not been held a general Visitation and Inquisition; and that for this Reason many Offences committed and perpetrated against our most holy Catholick Faith, which it is fit and right should be punished and chastised, have not come to our Knowledge and Notice, the Consequence of which hath been grievous Offence to God, and great Damage and Prejudice to the Christian Religion. For which Reasons we have commanded and appointed the aforesaid Inquisition, and general Visitation to be made and executed, and have caused the publick Edicts to be published and read, designing that all who shall be found guilty of these Wickednesses and Crimes shall be chastised, that so our Catholick Faith may every Day more flourish, and be exalted high, and greatly encrease. Assenting therefore to his most just Petition, and earnest Request, even as we ought, and desiring to use the best Remedy in those Things which relate to the Honour of God, and our blessed Lord, we have commanded and ordained this present Command, and publick and general Edict to be made and published amongst all and singular, and every one of you, for the same mentioned Cause and Reason, that if you know, understand, or have seen, or previously found out, that any living Man or Woman, present or absent, or already dead, hath made, published, said or spoken any or more Opinions or Words heretical, suspected, erroneous, rash, ill-sounding, savouring of Scandal, or any heretical Blasphemy against God, and his holy Catholick Faith, and against that which our holy Mother the Church of* Rome *embraces, teaches, preaches, and holds, you declare, speak and manifest it to us.*

And first, if you know, or have heard that any Men or Women have kept or observed any Sabbath, according to the Rites, Ceremonies, and Observance of the Law of Moses, *and on the said Days have put on a clean and fresh Shirt or Shift, and other Garments, or better, handsomer and Holyday Cloaths; or have laid clean Napkins on the Table, and clean Sheets on the Bed, in Honour of the said Sabbath; or have not blown up, nor kindled their Fire; or have abstained from all other Work on the said Sabbath, and begun to keep them from* Friday *Evening; or have washed their Meat; or drawn out and taken away the Sewet from that Flesh they were about to eat, soaking it in Water to suck and draw out the Blood; or have cut the Nerve or Gland out of the Leg or Thigh of a Sheep or Goat, or any other Animal; or have killed Animals by sticking them, and as it were muttering out certain and determinate*

minate Words, trying first of all their Knife upon their Nail, to see whether it be sharp, or notched, or blunt, afterward covering the Ground with the Blood; or who have eat Flesh in Lent, *and other Days forbidden by the holy Mother Church, without any Necessity to urge or require it, certainly thinking and believing that they may lawfully eat them, and without Sin; or who have kept the greater and solemn Fast, which they call the Fast of Remission and Indulgence, going that Day without Shoes, and with their Feet naked; or have prayed after the Manner of the* Jews, *and at Night have asked Pardon one of another; or Fathers have laid their Hands on their Childrens Heads, without pronouncing any Words, or giving them any Blessing; or saying, Be ye blessed by God and us, according as the Law of* Moses *directs, and the Tradition thereof.*

Or who have kept the Fast of Queen Esther, *or the Fast commonly called* Ramadan, *upon account of the Loss and Destruction of the Holy Land and House, or other Fasts of the* Jews, *within the Week,* viz. *by abstaining from Meat* Monday *or* Thursday, *till the Evening, when the Stars begin to shine, and from Flesh during those Nights, cutting their Nails and Ends of their Hair; keeping all those Things, or burning them; reciting* Jewish *Prayers; lifting up, or bowing down their Heads; turning their Face to the Wall; and before these Things washing their Hands in Water or Earth; putting on Garments of Sackcloth, with twisted Fringes, hanging down at the End of the Girdle, made with little Threads or Thongs of Leather, and formed into Tossels.*

Or who have celebrated the Passover of unleavened Bread, beginning this sort of Food with Lettice, Parsley, or other green Herbs; or have observed the Passover of Tabernacles, by fixing up green Boughs, or rich Tapestry; Feasting, and accepting each others Invitations to eat and drink together; or the Passover of Candles; lighting up Candles gradually, and one after another, till they come to the Tenth, after which they extinguish them, and recite Jewish *Prayers on such Days. Or if they say Grace after the Manner of the* Jews, *drinking Wine made at home, and celebrate what they call the* Baraka, i. e. *receiving with one Hand a Cup or Vessel of Wine, and pronouncing over it certain Words; after which they give a Draught of Wine to all that sit down. Or if they eat Flesh killed or slain by the Hands of the* Jews; *or sit at their Table; or taste their Meats; or recite the Psalms of* David *without the* Gloria Patri; *or if they expect the Messiah promised in the Law; or have said that the Messiah promised in the Law is not yet come, but is to come; and that they yet expect him to deliver them from that Bondage, which they say they are under, and to lead them into the Land of Promise. Or if any Woman, after Child-bearing, delays going to the Temple forty Days, according to the Rite of the Law of* Moses, *and is purified, according to the Ceremony thereof. Or if they circumcise new-born Infants, and give them* Jewish *Names, calling them thereby. Or if they have shaved, or caused to be shaved the Chrism, or the Parts of those newly baptized, which have been anointed with Oil and Chrism; or if they have taken a Bason full of Water the seventh Night after the Birth of a Child, throwing into it Gold, Silver, Jewels, Wheat, Barley, and the like; to wash the new-born Infant with the said Water, pronouncing certain Words; or have recommended their Children either to Witches or Magicians. Or if any have been married after*

the Jewish *Manner, or have celebrated the* Ruaia *when they go a Journey; or if they have born* Jewish *Names; or if at any time they have baked leavened Bread, and taken out the Leaven from it, and thrown it into the Fire after the Manner and Rule of a Sacrifice; or if any one about to die, turns to the Wall to breathe out his Spirit; or if they wash any dead Corpse with warm Water, shaving the Hairs under his Armpit, and the other hairy Parts of his Body, covering the dead Body with new Linnen Breeches, and a Shrowd, with a Veil thrown over it, putting a Pillow under the Head, and some new or Virgin Earth; or putting into the Mouth a Piece of Money, or a Jewel, or any Thing else. Or have wash'd with Water the House of a dead Person out of the Pitchers and Tubs of the House, and other Houses of the Neighbours, after the* Jewish *Ceremony; eating on the Ground behind the Doors, Fish and Olives, not Flesh; in token of Mourning for the Deceased; not going out of their House for a whole Year, according to the Observation of the said Law; or if they bury them in new and Virgin Earth, or in the Burial-Place of the* Jews; *or if any return and become converted to* Judaism; *or if any one shall say that the Law of* Moses *is equally holy with that which is given by our Lord and Saviour Jesus Christ.*

Or if ye know or have heard that any Men or Women have said and affirmed that the Sect of Mahomet *is good, and that there is no other by which any one can enter into Heaven, and ascend into Paradise; and that Jesus Christ is not God, but a Prophet; nor born of our Lady the Virgin* Mary, *a Virgin before, in and after his Birth; or hath done any of the Rites and Ceremonies of the* Mahometan *Sect, with an Intention to observe and keep them. For Instance, If they eat Flesh on* Fridays *as tho' they were Holydays, or on other Days forbidden by our holy Mother Church, affirming it to be no Sin, putting on the said* Fridays *new and clean Shirts and Shifts, and other Holiday Garments or Cloaths; or if they have killed Birds, or cut off the Heads of Cattle, or any Thing else, by sticking it with a Knife, leaving the Epiglottis to the Head, and turning the Face to the* Alkibla, i. e. *towards the East, saying,* Vizmila, *binding the Feet of Cattle; or if they abstain from eating of Birds, whose Heads are not cut off by the Hands of Women, and the Women will not cut off their Heads, because 'tis prohibited them in the* Mahometan *Sect. Or if they circumcise their Sons giving them Names of the said Sect, or calling them by the Names of the* Moors *and* Saracens; *they who name them so, or they who have caused themselves to be called by Names belonging to the* Agarenes, *or when they are so called, giving a Sign of Joy; or who have said that there are no other in Heaven but God and* Mahomet *his Messenger and Legate; or who have sworn by* Alquibla, *or* Alayminsula, i. e. *according to them by all that is sacred; or who have kept the Fast of* Ramadam, *by observing the Passover thereof, and giving Alms the same Day to the Poor, and abstaining from all Meat and Drink from Morning to Evening, till the rising of the Star, and then indulge to Flesh and other Meats; or who have celebrated* Zohor, *rising before Day-break, and stuffing themselves with Meat before 'tis light, after this washing their Mouths, and returning to Bed; or have celebrated* Guadoc, *washing their Arms from the Wrist to the Elbow, their Cheeks, Mouths, Noses, Ears, Legs, and Privy Parts; or after having done these Things have celebrated* Zala, *turning their Face towards* Alquibla, *being on a* Spartan *Carpet,*

Carpet, or Tapestry, raising up and bowing down the Neck, pronouncing certain and determinate Arabick *Words, and reciting the Prayer which they call* Allanda lu ley and colhua and guohat, *and the like* Arabick *Prayers; eating no Swines Flesh, nor drinking Wine according to the Rule and Observation of the* Saracen *Sect; or who have celebrated the Passover of the Lamb or Ram, and killed him, making and celebrating first of all* Guadoc; *or if any have married after the* Mahometan *Manner, and sung the* Arabian *Songs of* Moors, *or have celebrated* Zambras; *or* Leleylas, *with prohibited and forbidden musical Instruments, observing the five Precepts and Commands of* Mahomet.

Or if any one hath tied up for himself or his Children, or other Persons, Liancas, i. e. *one Hand in Memory of the five Precepts; or hath washed the Dead, buried the Corpse wrapped up in new Linnen, putting it into new, pure, or Virgin Earth; or who have ordered these Things in their hollow Sepulchres, putting a Stone at the Head of it, and putting into the Sepulchres green Boughs, Milk, Honey, and other Meats; or who have cried out, and called upon* Mahomet *in all their Events and Actions, saying, that he is a Prophet, the Messenger of God, and that the first Temple of God was in* Mecca, *where they believe* Mahomet *was buried; or who have said that they did not receive Baptism with the Intention and Faith of the holy Mother the Catholick Church; or who have said that their Fathers who died in the* Mahometan *or* Jewish *Sect, and that a* Saracen *or* Jew, *each tenacious of his own Sect, may be saved; or if any Person hath fled over to the* Turks, *or Infidels, and denied the Catholick Faith, and departed from it; or gone to other Parts and Places without these Kingdoms, to profess the* Jewish *or* Mahometan *Sect; or have done, held, or said any other Rites or Ceremonies of the* Saracens.

Or if you know, or have heard that any Men or Women have said, held, or believed the false and condemned Sect of Martin Luther *and his Followers to be true, holy, and approved; or have believed or approved his other Opinions, by asserting that Confession to a Priest is not necessary; that 'tis sufficient to confess to God only; that the Pope and Priests have not Power to absolve Sins; that in the Host there is not truly contained the Body of our Lord Jesus Christ; that Saints are not to be invocated; that Images are to be taken out of Churches; that there is no Purgatory; that the Dead are not to be prayed for; that good Works are not necessary; that Faith only with Baptism is sufficient to Salvation; that any one may hear another's Confession, and give the Communion under both Kinds of Bread and Wine; that the Pope hath no Power to confer Indulgences, Graces, Indults, and Bulls; that the Clergy, Religious, Monks, and Nuns, may contract Matrimony; or who have said that the Religious, Monks, Monasteries, and Ceremonies of Religion ought to be taken away; or have said that God hath not instituted the Religions, and that a Marriage State is more perfect than the Religious State of the Clergy and Monks; and that there are no Holidays besides the Lord's Days; that 'tis no Sin to eat Flesh on* Fridays, Vigils *and* Lent; *because eating Flesh is not forbidden and limited to certain Days; or who have believed any one or more of the Opinions of* M. Luther *or his Followers; or fled over to other Provinces to profess* Lutheranism.

Or if you know, or have heard that any Men or Woman, living or dead, have said or affirmed that the Sect of the Illuminated, or Relicts is approved; particularly

that

that mental Prayer is of divine Appointment; and that all other Duties are fulfilled in it; and that Prayer is a Sacrament under Accidents; and that mental Prayer is of great Weight and Efficacy, and vocal Prayer of but ſmall Moment; that the Servants of God are not to be diſtracted by bodily Exerciſes; that the Prelate, Father, or Superior are not to be obeyed, if they command Things that call Perſons off from Contemplation and mental Prayer; or if by Words they have derogated from the Sacrament of Matrimony; and ſaid that no one can get the Secret of Virtue, unleſs he become the Diſciple of thoſe Maſters who teach the aforeſaid perverſe Doctrine; and that no one can be ſaved, who is not taught by ſuch Maſters, and generally confeſſed to them; and that certain ſecret and inward Ardors, Tremors, Extaſies, Shiverings and Faintings, which they undergo, are Signs of a vehement Love towards God; and that from hence it may be certainly diſcerned that they are in a State of Grace, and have the holy Spirit within them; and that being thus perfect, they want no other Helps, and ought not to be obliged to laborious Acts; and that when they attain to a certain prefixed Term of Perfection, the divine Eſſence, and the Myſteries of the Trinity may be beheld in this Life, and are actually beheld; and that the Holy Spirit doth immediately govern thoſe who thus live; and that the internal Motion and Inſpiration of the Holy Ghoſt is only to be followed in what they do, or refuſe to do; or who ſay that when the moſt Holy Hoſt, in the Sacrifice of the Maſs, is held out to View, the neceſſary Rite and Ceremony, during the Elevation, is to ſhut the Eyes; or that any Perſons have ſaid and affirmed, that when they are come to a certain determinate Point of Perfection, 'tis a Sin to look on the Images of the Saints, to be preſent at Sermons, pious Conferences, and other Exerciſes of the ſaid Sect, and abſurd Doctrine.

Or if ye know or have heard of any other Hereſies, and eſpecially theſe. That there is no Paradiſe, nor heavenly Glory for the Good, nor Hell for the Wicked, but that the Soul periſhes together with the Body, with other heretical Blaſphemies, ſuch as, I do not believe, but disbelieve, defy and deny our Lord God, the Virgin Purity of our Lady, the Virgin Mary, *or the He and She Saints of Heaven. Or who have, or have had familiar Spirits, calling upon them, making Circles, and asking them concerning certain Matters, or waiting for their Anſwers. Or whether they have been Fortune-Tellers or Gypſies; or have made a tacit or expreſs Covenant with the Devil, mixing ſacred Things with profane, in Confirmation of it; attributing to the Creature that which belongs to the Creator only; or that any Perſon, being a Clergyman, or in holy Orders, or a profeſſed Religious, hath contracted Matrimony; or that any one, not being inveſted with the ſacerdotal Character, hath ſaid or celebrated Maſs, or adminiſtred any Sacrament of our holy Mother the Church. Or that any Confeſſor, or Prieſts being Confeſſors, or Religious or Seculars, of whatſoever State or Dignity, hath enticed the Daughters of Penance in the Act of Confeſſion, or immediately after it, by provoking or inducing them, by Deeds or Words, to filthy, carnal and immodeſt Acts. Or if any Perſon whatſoever hath married twice, or oftener, the former Wife or Husband being living. Or that any one hath ſaid or aſſerted that ſimple Fornication, Uſury or exceſſive Intereſt or Perjury, are not mortal Sins; or that it is better to live in a State of Concubinage than in lawful Wedlock; or hath diſgracefully uſed and done Deſpite to the Images of Saints and Croſſes; or that any*

Man

Man or Woman hath not believed the Articles of the Catholick Faith; or called any of them into Question; or hath staid and continued for a Year or longer under Excommunication; or hath despised the Censures of our holy Mother the Church, by saying or doing any Thing against them.

Or if ye know, or have heard of any Persons, Men or Women, that under Pretence of Astrological Science, or Looks or Aspects of the Stars, or by the Lines and Tokens of the Hands, or any such Things, do by this Knowledge, Faculty, or any other Way, answer or foretel future Things depending on the Liberty and Free-will of Man, or accidental Things that may come to pass, or Things already past that are secret and free, saying and affirming that there is a certain Art, Science, and certain Rules whereby to know these Things, in order to persuade People to seek after and consult the aforesaid Diviners concerning the said Matters, when, on the contrary, the said Science is false, vain and superstitious, and turns to the great Damage and Prejudice of Religion and the Christian Faith.

Likewise if ye know, or have heard that any Men or Women have had, or have Books of the Sect and Opinion of Martin Luther, *or other Hereticks, or the Alcoran of* Mahomet, *and other Books of the said Sect, or Bibles in the* Spanish *Tongue, or any other Books or Writings condemned and prohibited by the Censures, Catalogues and Edicts of the holy Office of the Inquisition; or any Men or Women who have not fulfilled that to which they were obliged; or who have omitted to detect, discover and say what they know in these Affairs; or who have said to, or persuaded other Persons not to declare these Things, and give Information to the Inquisitors; or who have suborned or corrupted Witnesses to give Evidence against those who have deposed in the Court of the holy Office; or that any Men or Women have deposed and given false Witness against others to their Damage and Infamy; or who have cherished, received, concealed and hid Hereticks, by giving them Favour and Assistance, in order to conceal and preserve their Persons and Effects; or who have been any Hindrance by themselves, or by the Interposition of other Persons, to the free and right Administration of the holy Office of the Inquisition, their Ministers and Officials, and Family; or who have taken down, or caused to be taken down the Habits or* Sanbenito's *from those Places, in which they were put up by the holy Office, or have put up others in their Room; or that those who have been reconciled and enjoin'd Penance by the Office of the holy Inquisition, have not fulfilled the fixed Times of their Imprisonment, or the Penance enjoin'd them; or if they refused publickly to wear the Habit of Reconciliation; or that any Persons reconciled publickly or privately, being enjoined the Yoke of Penance by the holy Office, have said or affirmed, that what they confessed before the holy Office, either of themselves or others, was false, that they did, and said it thro' the Influence of Fear, or for any other Reason; or have revealed the Secret committed and commended to them by the holy Office; or that any Persons have said that those who were delivered over by the holy Office of the Inquisition, were condemned without any previous Fault, or suffered as Martyrs; or that any Men or Women reconciled, or the Children or Grandchildren of Persons condemned for the Crime of Heresy, have administred, or do administer publick and honourable Offices, which are prohibited them by divine Law, and by the Laws and Pragmaticks of these Kingdoms, and the Institutions of the holy Office; or have been promoted to sacred Orders; or have any Ecclesiastical*

or Secular Gift or Dignity; or the Ensigns of such Dignity; or have worn prohibited Things, such as Arms, Silk, Gold, Silver, Blood-stone, Jewels, Corrals, fine Cloth; or have got on Horseback, or rid as Horsemen; or that there are any Processes, Acts, Denunciations, Informations or Proofs concerning the Crimes contained in this Edict, in the Hands of any Notary, Attorney, or any other Person whatsoever.

By Virtue of these Presents therefore we admonish, exhort and require, and command you, and every one of you, in Virtue of your holy Obedience, and under the Penalty of Excommunication, latæ sententiæ, *after three Canonical Admonitions, that if you have known, done, seen or heard any Man or Woman, or Persons, to have committed, said, held, or affirmed any of the Things aforesaid and declared, or other Things, whatsoever they be, against our holy Catholick Faith, and against what our holy Mother the Catholick Church of* Rome *holds, teaches and preaches, as well concerning Persons living, present or absent, as dead, you do, without mentioning it to any other Person, for thus 'tis convenient and becoming, come and appear personally before us, to declare and manifest it within six Days immediately following the Day of the Publication of this our Edict, altho' you may by any Means have had a Part in, or Knowledge of this Matter; giving you previous Admonition, which we now do, that after the said Term is lapsed, and Obedience not paid to the aforesaid, besides that you incur the said Censures and Penalties, we shall proceed against them who shall have been found contumacious, disobedient, and rebellious, as against Persons who fraudulently cover and conceal these Things, and who have wrong Sentiments concerning Matters of the holy Catholick Faith, and the Ecclesiastical Censures. And because the Absolution of the Crime and Offence of Heresy is specially reserved to us, we forbid and probibit, under the aforesaid Penalty, all Confessors whatsoever, Clergy or Religious, that they do not absolve any Man or Woman intangled in, or guilty of this Crime, or who have not said or discovered to the holy Office whatsoever they have known of these Things, or heard others say. Yea, who have not sent it to us, that the Truth being known and found out, evil Men may be punished, and good and faithful Christians may be known and honoured, and our holy Catholick Faith may be happily spread. And that all the aforesaid Matters may come to the Knowledge of all, and no one may excuse himself by pretending Ignorance, we command them to be published this Day.*

Pegna 3. *part. com.* 12. Simanc. *tit.* 44. §. 2.

In many Places, but especially in *Spain*, 'tis the Custom, that when the Sermon of the Catholick Faith is ended, all promise upon Oath, before the Crucifix and Gospels, that they will give Favour, Help and Counsel to the holy Inquisition, and the Ministers of it; and that they will by no Means directly or indirectly hinder them. This Oath the Magistrates of Cities must particularly take, which must be registred amongst the Acts by the Notaries of the Inquisition, 1 *Instruct. Hispal. cap.* 1, 2. This Oath the Inquisitor may force them to take, and will do it when he thinks fit. In all other Cases he must follow the received Custom of the City, where he is, to prevent Innovations, and that there may be no Hindrance in this Cause.

The Form of the Oath they are obliged to take is this. *We the Viceroy, or Pretor,* &c. *of such a Province, or City, or Place; and such Consuls or Jurats of such a City,* &c. *at the Request and Admonition of the Reverend Lord Inquisitor, Doctor or Licentiate* N. *as true, faithful and obedient to the holy*

Church

Church of God, do promise and swear by these holy four Gospels placed before us, and by us corporally touched, that we will hold, and cause to be held, observe, and order to be observed, the Faith of our Lord Jesus Christ, and of the holy Roman *Church, and defend it to our utmost against all Persons; also that we will prosecute and apprehend, or cause to be apprehended, whensoever we can, Hereticks, their Believers, Favourers and Receivers, and their Defenders, and those who are defamed or suspected of Heresy, and we will accuse and denounce them to the Church or Inquisitors, when we know them to be any where, or any one of them, especially when we shall be required hereto. Likewise that we will not grant Ballives, Saionies*, or any publick Offices, of any Name whatsoever, to any one of the aforesaid pernicious Persons, or to such as are suspected or defamed of Heresy, nor to any other Person who shall have been judged unworthy of it upon account of Heresy, or otherwise prohibited by the Inquisitors or the Law, from enjoying publick Offices; nor will we permit them to enjoy the aforesaid, or to hold publick Offices. Likewise that we will receive none of the aforesaid Persons, nor entertain them knowingly in our Family, Conversation, Service or Counsel. And if the contrary should happen, thro' Ignorance, we will immediately expel them, after it shall come to our Knowledge by the Church, or Inquisitors of heretical Pravity, or their Commissaries: And that in these Things and all others which belong to the Office of the Inquisition of heretical Pravity, we will be obedient to God, and the Church of* Rome, *and the Inquisitors of the said heretical Pravity, according to our Duty and Ability. So help us God, and these holy Gospels of God, upon which we swear, and which we touch with our own Hands.*

This Form of Swearing was drawn from the Constitution of the Emperor *Frederick* II. published at *Padua*, *Feb.* 22. 1239. *Indict.* 12. and is annexed to it, with four other Constitutions of the same Day, of which mention is made in the first Book, which were afterwards inserted in the Rescripts of several Popes.

After the Sentence of Excommunication is read, the Inquisitor explains it *Direct.* more distinctly, and reduces it to several Heads. Then he publishes an In- *p.* 3. *n.* 54, dulgence of forty Days to all who come to his Sermon, and promises, in the 55. Name of the Pope, Indulgences for three Years, to all who give him Counsel or Favour in his Office of reducing Hereticks. He also adds three other Years of Indulgences to those who discover to him any Heretick, or Person defamed for Heresy, or suspected, or who in any other Case bear true Witness before him in a Cause of Faith, according to the Privilege of *Urban* IV.

Finally, he assigns a Time of Grace to all Hereticks, and their Favou- 56. rers, and Persons suspected of Heresy, *viz.* the entire Month following, and promises, that if within that Space they come to him freely, or not admonish'd, by Name, and don't wait till they are denounced, accused or apprehended, and voluntarily discover their Guilt, and ask Pardon, they shall obtain large Pardon and Mercy, *viz.* Freedom from Death, Imprisonment, Banishment, and Confiscation of Effects, according to the Determination of the Council of *Biterre*, cap. 2. *Farther, do you command that all, who know themselves or others to have offended in the Crime of heretical Pravity, do appear before*

* *Ballivæ* and *Saioniæ* are a sort of Messengers attending on Princes and Magistrates.

you to speak the Truth, assigning them a competent Term, which you usually call the Time of Grace, who otherwise would not have had such Grace shewn them. And such who appear within this Term, and are penitent, and speak the whole Truth of themselves and others, let them be free from the Punishment of Death, Imprisonment, Banishment, and Confiscation of Effects. However, this Power of granting Pardon is allowed the Inquisitors only when they are sent to a City or Diocese, in which the Inquisition is first erected. *Instruct. Hispal. A.* 1484. cap. 1, 2, 3. but not when upon the Death or Removal of an Inquisitor, another is put into his Place. In *Spain* also the Letters Patent of such Grace must be inserted in the Edict.

Pegna, *Com.* 12.

CHAP. III.

Of the Obligation to denounce every HERETICK *to the* INQUISITORS.

THE Publication of the Edict of Faith is repeated every Year, and all are obliged, under Penalty of Excommunication, to be present at the publishing of it, and at the general Sermon concerning the Faith, unless they are prevented by Sickness, Age, or any other Hindrance, and can make a legal Excuse.

The Oath which all Persons, not only private, but Magistrates, are compelled by the Inquisitors to take, obliges them not to obstruct the Office of the Inquisition, either directly or indirectly. Such are believed to obstruct it indirectly, who do not reveal the Truth they know, *i. e.* do not accuse to the Inquisitor every one they know to be an Heretick, or suspected of Heresy. So that in *Spain* they are doubly obliged to accuse to the Inquisitor every Heretick, first under Penalty of Excommunication, which they incur if they are wanting in their Duty; and secondly, by their own Oath.

In order therefore to excite all Persons to turn Accusers, the Popish Doctors lay the greatest Stress they can upon this Obligation to accuse. *Camillus Campegius*, after laying together the Testimonies of several Doctors, teaches, that every one is obliged to accuse and testify, and that according to *Cajetan*, he is bound to it as necessary to Salvation; if there be no other way of preventing the general Danger but by this Method, and then concludes in these Words: *These Things ought so to excite every faithful and Catholick Person, as to engage them willingly to accuse or denounce and bear Witness, for the common Good of the Christian Religion, without the Admonition, Citation or Punishment of the Judge. Tho' this ought to be observed in all Cases, yet it ought to be done with greater Ardency in the Affair of the Christian Faith, since hereby we not only avoid the most severe Punishments, but secure incomparable Rewards, thro' the Bounty of the supream God, and the Favour of his holy Church.*

In Zanchin. c. 13. *d.*

Not

Nor is there any Regard to Kindred in this Affair. For the Brother is bound under the same Penalty to accuse his Brother, yea, the Wife her Husband, and the Husband his Wife, if guilty, or suspected of Heresy. *Pegna* however thinks, that the Wife is to be excused, if she doth not accuse her Husband for eating Flesh on prohibited Days; if the Husband be a terrible Fellow, and she is afraid of ill Usage from him. In all other Cases he thinks the Wife is obliged to accuse her Husband. *Direct. part.* 2. *com.* 78.

[*Ludovicus a Paramo* tells us, that *Lewis de Carvajal*, altho' Governor and Captain General of the Province of *Tampico* and *Pamico*, was forced to walk out in publick Penance, because he did not denounce four Women, who were secretly *Jews*, and to whom he was Uncle; and that tho' a little before he had the honourable Title of President, he was forced to hear his ignominious Sentence publickly, was for ever deprived of all Offices under the King, reduced to the lowest Misery, and thro' Grief and Weariness of his Life, soon went the Way of all Flesh.] *l.* 2. *t.* 2. *c.* 21. *n.* 16.

'Tis disputed amongst the Popish Doctors, whether a Son be obliged to accuse his Father, who is a secret Heretick, or at least to discover him to the Judges. The general Opinion is, that he is obliged to it. But others think differently, because there is no Law, natural, divine, or human, that lays such a Burthen on the Shoulders of Children. And yet even such who are of this Opinion, confess the Son may do it, especially if the Father be incorrigible. Yea, think such a Son ought to be commended who conquers his natural Love, and overcomes this most strong Affection, from an ardent Love to divine Religion. He must however try every Method before he accuses his Father to the Judge. But yet they teach, that there are two Cases in which the Son is obliged to betray his heretical Father to the Judges. The first, when the Son is legally interrogated by the Apostolick Inquisitors; the second, when the Father's Heresy is dangerous to the Common-wealth. Simanc. *de Cathol. Inst. tit.* 29. §. 35. *&c.*

Pegna however affirms, that the Son ought to accuse and denounce before the Inquisitors, his Father, whom he knows to be an Heretick. The Reward of such Accusation is, that the Son who thus acts, is freed from the Penalties ordained against the Children of Hereticks, according to the Law of the Emperor *Frederick*. *Nor do we think proper to exclude from the Bounds of Mercy such, who not following the Heresy of their Fathers, shall discover their secret Wickedness; so that in what manner soever the Father's Guilt be punished, let not the Innocence of their Children be subject to the aforesaid Punishment. Carena* adds, that not only an heretical Father, but even one only suspected of Heresy, must be accused by the Son to the Inquisitors, because the same Reasons hold good as to Hereticks, and those suspected of Heresy. *In* Eymer. *part.* 2. *com.* 15.

An Heretick also reformed, according to *Royas*, ought necessarily to be accused before the Inquisitors of the Faith; because they often feign themselves to be corrected and amended, and in the mean while infect with their Doctrine unwary Catholicks. And altho' such Hereticks should be really reformed, 'tis nevertheless useful and necessary to accuse them, that the Inquisitors of the Faith may interrogate them from what Masters they learnt *Part.* 2. *Assert.* 3.

their Errors; what Disciples they taught before their Conversion; or if any of their Friends and Acquaintance have been corrupted by their perverse Doctrine. He saith this may be gathered from the *Madrid* Instruction, *A.* 1561. *c.* 53. *in fin.*

Lib. 3. *qu.* 5. *n.* 40. And from this Obligation to accuse, no one is freed, of whatsoever Order and Dignity they may be. For the Edict of Faith obliges all. So that they will have neither Princes nor Kings themselves exempted. *Ludovicus a Paramo* proves this by a famous Instance. *Joan* the Daughter of the Emperor *Charles* V. was cited by the Inquisitors to be interrogated before them, against a certain Person concerning some Things relating to the Faith. She consulted her Father, who advised her to make her Deposition without any Delay, least she should incur Excommunication, not only against others, but even against himself, if she knew him to be blameable in the least Matter. *Joan* obeyed this Command of her Father, and immediately deposed before *Ferdinand Valdez*, Arch-Bishop of *Seville*, at that Time Bishop and Inquisitor General.

CHAP. IV.

Of such who voluntarily appear, and the Grace shewn them.

Simanc. *tit.* 44. §. 4. "'TIS the present Custom in *Spain* for one of the Inquisitors in these "Acts, to visit the Province, and to propose general Edicts where-"ever he goes, by which he commands, under Penalty of Excommunica-"tion, that whosoever knows of any Thing done or said against the Catho-"lick Faith and Evangelick Law, he must immediately discover it to the "Inquisitor. Whatever is reported, must be secretly written down by the "Notary of the Inquisitors. The other of the Inquisitors remains in the Ci-"ty in which their Residence is fixed, and must preside, in ordering the "Acts of Causes. But if there be no Occasion for his Residence there, that "he may not sit idle, he must visit in the same Manner the other Part of "the Province, 5 *Instruct. Hispal.* cap. 2.

§. 5. "This Visitation and general Inquisition the Inquisitors must make, each "in his Turn, thro' all the Cities and Corporations of their Province; and "if they are negligent in this Affair, they must be deprived of their Office. "In this Visitation the Inquisitors may compel all those whom they judge

§. 6. "proper, to swear and bear Witness, and must take particular Care not to "be entertained by those who are related and akin to Hereticks, *Jews*, and "*Mahometans*, which must also be observed by their Ministers. Nor must "they receive any Gratuity from the Persons where they lodge, because they "are to be content with their Salaries, and because sometimes an intimate "Friendship is contracted by this Means, 8 *Instruct. Tolet.* c. 19."

Whilst

Whilst one of them is visiting the Province, the other Inquisitor stays at home, that all who come voluntarily may have Access to him. If they come within the appointed Term, and accuse themselves, he treats them more gently. He must not however admit them after the Manner of Sacramental Confession, but after the Manner of Confession in a judicial Court; so that they must declare their Crime before the Inquisitor, and the Notary take down their Confession. *Direct. part. 3. §. 58.*

After such Confession, every one of them is interrogated by the Inquisitor, whether he hath adhered to such Errors, or only been in doubt concerning them? For how long Space of Time he hath continued in them? From whom, and how he learnt them? Whether he hath had and read any heretical or suspected Books? What they were, from whom he had them, and what he hath done with them? Other Questions are added concerning his Accomplices in Heresies, that he may tell the Names of all those Hereticks, or Persons suspected of Heresy, whom he knows. He is farther asked, Whether he hath ever been inquisited, processed, or accused or denounced in any Tribunal, or before any Judge, on account of the aforesaid Errors, or other Things relating to Heresy? He is also admonished simply to tell the whole Truth which he knows, as well of himself as of others; because, if he is afterwards found deceitfully to have concealed any Thing, he is judged as one whose Confession is imperfect, and as impenitent, and feignedly converted. Finally, he is interrogated, Whether he repents of these Errors and Heresies into which he hath fallen? And whether he is ready to abjure, curse and detest them, and all other Heresies whatsoever, that exalt themselves against the holy Apostolick and *Roman* Church, and to live for the future catholickly, according to the Faith of the Church of *Rome*, and devoutly to fulfil the salutary Penance enjoined him? *Pegna, prax. Inq. l. 2. c. 4. n. 6, &c.*

If the Inquisitor finds that he was before admonished, yet he is to be dealt with more gently, because he appeared voluntarily. For such are said voluntarily to return to Favour, who come within the Time of Grace, altho' they have been admonished. For they don't appear to be forced, since they are apprehended by no one. Yea, 'tis the same if they come after the Time of Grace, whilst their Cause is entire, because they were not personally required, nor the Proofs against them received. *n. 60. Lucern. Inq. in voc. redire.*

However, at their first Appearance, the Inquisitors must not write down, that they appeared voluntarily; because such Appearance, after Accusation, altho' the Person may not have been verbally cited, is not presumed to be voluntary, nor made with a candid and pure Will, but is rather thro' Terror, and unwilling, thro' Fear and Dread of the Proofs, to avoid the ordinary Punishments. However, it may be minuted down, that such a one appeared not cited or called. *n. 12.*

If the Crime be entirely concealed, the Inquisitor may absolve him secretly, enjoining him wholesome Penance. But if it be not secret, and the Person confesses that he hath not only believed wrong, but hath revealed his erroneous Belief to others, and infected them, the Inquisitor must proceed against him, *n. 61. n. 62.*

him, according to the Canonical Sanctions, but yet in a milder Manner, because he came of himself, without being called on, and within the Time of Grace.

Carena, *annot. in Pegnam. Ibid.* If those who thus voluntarily confess, say, that they have done any external Action against the Faith, without any Error of the Understanding, altho' some sort of Proof may have preceded, they must not be proved to be Hereticks; for those who are ready to be corrected, must by no Means be reckoned amongst Hereticks. From these Things they infer, that if any one confesses that he hath done certain *Jewish* Ceremonies, or those of any other Sect, upon the account of some Profit to himself, he is not to be accounted an Heretick. This sometimes is the Case of Captives, who, without any other Intention, but that of their being better freed from their Captivity, externally deny the Faith. *San Vincente* the Inquisitor tells us, That he saw a certain Person who wanted to satisfy his lustful Desires upon a Woman, who was one of the newly converted *Saracens*. She promised to lie carnally with him, if he would first perform a Ceremony of their Sect, called *Gaodoc*. He, tho' an old Christian, in order to gratify his lewd Inclinations, did it, but immediately went and voluntarily confessed it, adding that he had no other evil Intention. After consulting the supream Senate, he was absolved, *An.* 1618. A Case may however happen, when a Person who makes a voluntary Confession, may be obliged to abjure vehemently. A certain new Christian of the *Saracens* being driven from *Spain*, was afterwards taken by the Christians. He immediately accused himself, that whilst he was amongst the *Moors*, he did some Ceremonies and Acts of the *Mahometan* Sect, denying an evil Intention therein. But as some of these Things seemed to the Inquisitor entirely voluntary, *viz.* his marrying an Infidel *Moorish* Woman for his Wife, without any Violence, or any other Advantage, he examined his Fellow-Captives; and when it was proved that he made his Confession thro' Fear of Proof, it was determined that he should abjure as vehement, which Determination pleased the supream Council. But when this very Criminal had been kept in Custody a few Days, in order to his confessing the whole Truth, he made the Confession desired, and was reconciled in Form.

However, such as come voluntarily, are far from escaping all Punishment, but are either treated kindly at the Pleasure of the Inquisitor, according to the Quality of their Persons and Crimes, or else condemned to pay a Fine, or give Alms, or some such Works of Charity. But if they wait till they are accused, denounced, cited or apprehended, or suffer the Time of Grace to slip over, they are pronounced unworthy of it.

And in this Case many foolishly deceive themselves with a false Opinion, believing, that because Favour is promised to such who appear voluntarily, they shall be free from all Punishment; because they are only saved from the more terrible ones, it being left to the Pleasure of the Inquisitors to inflict some penitential Punishment on them, according to the Nature of their Crime, as will appear from the following Instance. "There was at the

Gonsalv. *p.* 193. " City of *Cadiz*, a certain Foreigner, who yet had lived in *Spain* for twenty " Years,

" Years, who, according to a common Superstition, dwelt in a Desart in a " certain Chapel, upon the Account of Religion. Hearing in his Chapel of " the great Number of those who were taken up every Day at *Seville* by the " Inquisitors, for what they call the *Lutheran* Heresies; having heard also " of the Decree of the Inquisitors, by which he was commanded, under the " Terrors of Excommunication, immediately to discover to the Inquisition " whatsoever he knew of those Things, either as to others or himself; the " poor stupid Hermit comes to *Seville*, goes to the Inquisitors and accuses him- " self, because he thought the said Inquisitors would use singular Clemency " towards those who thus betrayed themselves. His Crime was, That where- " as, being about twenty Years before this at *Genoa*, and hearing a certain " Brother of his disputing about a Man's Justification by Faith in Christ; of " Purgatory, and other Things of the like Nature, he did not wholly condemn " them, tho' he never thought of them afterwards. He therefore acknow- " ledged his Crime, and came to ask Mercy. When the Lords Inquisitors " had received his Confession, they commanded the poor Hermit to Jayl, " where, after a long Confinement, he was brought out in publick Proces- " sion, and was sentenced to wear the Sanbenito, to three Years Imprison- " ment, and the Forfeiture of his Effects."

Sometimes also they use a certain Stratagem to draw Persons to a volun- *Ib.* 202. tary Appearance before the Inquisitors. " When they have apprehended " any remarkable Person, who hath been the Teacher of others, or who " they know hath been resorted to by many others, upon account of his " Doctrine and Learning, as being a Teacher and Preacher of great Re- " pute; 'tis usual with them to cause a Report to be spread amongst the " People, by their Familiars, that being grievously tortured, he had disco- " vered several of those that had adhered to him, suborning some Persons " out of the neighbouring Prisons, to assert that they heard his Cries amidst " his Tortures, in order to give the greater Credit to the Report. These " Reports are spread for this Reason, that such who have attended on his In- " structions, or have been any ways familiar with him, may in time go to " the holy Tribunal, confess their Fault, and implore Mercy, before they " are sent for, or apprehended. By this Means they impose on many, who, " if they had waited for their Summons, had never been summoned at all. " Or if it should have happened that they had been summoned, would not " have been dealt with more severely than they generally are who trust to " the Inquisitors Promises.

CHAP.

CHAP. V.

Of the three Methods of beginning the Process before the Tribunal of the INQUISITION.

Direct. p. 3. n.63. IF any appear within the Term assigned to discover Hereticks, *&c.* to reveal to the Inquisitor certain Matters relating to the Faith, such * Denunciations must be received judicially. If so great a Number appear, that the Denunciation of all cannot be taken judicially, the Inquisitor must provide himself with a distinct Book in every Diocese, to write down in it all the Denunciations brought to him, the Names of the Denouncers and Witnesses, and the Town and Place where they dwell; which Book he keeps privately to himself, that the Names of the Denouncers may not be discovered, and they thereby come into any Danger.

65. When the Time of Grace is elapsed, the Inquisitor must carefully examine the Informations, *viz.* which have the greater Appearance of Truth, and which Crimes are more heinous and prejudicial to the Faith. Where this appears he begins to make Inquisition, by citing the Informer, giving him his Oath, and taking the best Information from him that he can. If he finds no Appearance of Truth, he over-rules it, but however must not cancel the Information out of his Book, because what may not be discovered at one time, may at another. If he finds an Appearance of Truth, he makes farther Inquisition.

Now there are three Ways of Proceeding and beginning the Process. First, by Accusation, which must be preceded by † Inscription. Secondly, by Denunciation, which must be preceded by a charitative Admonition. But 'tis now the Custom in *Spain*, that Hereticks, altho' concealed, must be immediately discovered to the Judges, without any brotherly Correction. So that those who, under pretence of brotherly Correction, do not discover secret Hereticks to the Inquisitors, and those who advise them not to do it, are punished as Concealers of Hereticks, and as Hinderers of the Office of the holy Inquisition. Thirdly, by Inquisition, which must be preceded by notorious Suspicion. This Inquisition is either General or Special. The General is whensoever the Inquisitors visit their Province, or when being newly created, they go to the Provinces decreed to them, and begin to exercise their Inquisitory Office. For then they publish general Edicts, to enquire out secret and uncertain Hereticks, for the Exercise of which there is no Need of preceding Infamy. But the Inquisitors are obliged, *ex officio*, thus to act at certain stated Times.

Simanc. t. 19. §. 16.

Pegna *in Direct.* p. 3. Com. 16.

* There is this Difference between a Denunciation and an Accusation. A Denunciation doth not disable the Person that makes it to be a Witness, as an Accusation doth.

† Inscription is a certain Instrument, by which the Accuser, if he fails in his Proof, binds himself to undergo the same Punishment, which the accused Person must, if the Crime he is accused of be fully proved.

In

In ſeveral Inquiſitions 'tis cuſtomary to publiſh ſuch Edicts for the Diſcovery of Hereticks every Year, the ſecond *Sunday* in *Lent*, in the Cathedral Church during the Celebration of Maſs, and therefore on that Day there is no Sermon, that all may more attentively regard the Things contained in that Edict of the Faith. This Method of Inquiſition is preſcribed by the Council of *Tholouſe*, cap. 2. *We ordain that the Arch-Biſhops ſhall oblige by Oath one Prieſt, and two or three, or more, if Need be, of the Laity, of good Reputation, in every Pariſh, as well in Cities as out of them, who may diligently, faithfully and frequently inquire out Hereticks in the ſaid Pariſhes, by ſearching every Houſe, and under-ground Rooms that are remarkably ſuſpicious, and all Buildings leaning upon and joining to ſuch Buildings, and any other hiding Places, all which we command to be deſtroyed; and that if they find any Hereticks, their Believers, Favourers and Receivers, or Defenders, they ſhall take ſpecial Care that they do not eſcape; and they ſhall diſcover them to the Arch-Biſhop or Biſhop, or Lords of ſuch Places, or to their Ballives, with all Speed, that they may ſuffer the deſerved Puniſhment. Let alſo ſuch Abbots as are exempt do the ſame in ſuch Places which are not ſubject by Dioceſan Right to the Ordinaries. Let alſo all Lords of Places be careful to inquire out Hereticks in their Villages, Houſes and Woods, and to deſtroy ſuch adjoining Buildings and under-ground hiding Places.* Pegna, *prax. Inq. l.* 1. *c.* 10. §. 2. *n.* 5.

A ſpecial Inquiſition is a certain Right of proceeding by Office to Condemnation and Puniſhment againſt certain Perſons inquiſited by Name, defamed for particular Crimes, to which the Judge cannot proceed without preceding Infamy, which ſupplies the Place of an Accuſer. However, in the Crime of Hereſy, the Inquiſitor may act upon Signs and probable Suſpicions, where there is no preceding Infamy, and even where he is not ſure of the Body of the Offence, becauſe Hereſy is a Crime that leaves no Traces after it. But in this Caſe he muſt proceed cautiouſly, and very privately, that no Perſon's Reputation and Honour may be injured.

But of theſe three Methods of Proceeding, the firſt, by way of Accuſation, is not uſed; the ſecond, by Formation, altho' common and uſual, yet ſeems rather to be the Beginning than the Completion of the whole Proceſs; becauſe upon Information given againſt thoſe who are guilty of High Treaſon againſt the Divine Majeſty, to the Judges of the Faith, they begin to inquire and to proceed, and in this whole Affair the Inquiſition claims to it ſelf what is otherwiſe done chiefly by Witneſſes. And therefore the Judges are called Inquiſitors, and the Tribunal and Miniſters are ſaid to be of the Office of the moſt holy Inquiſition, from this third Method of Proceeding by Inquiſition. §. 3. *n.* 6.

CHAP. VI.

How the Process begins by way of INQUISITION.

WHEN the Process is made by Inquisition, he who goes to the Inquisitor says, that he doth not appear as an Accuser or Denouncer, but only relates to him that there is such a Report, and that it hath frequently come to the Ears of the Inquisitor from grave and reputable Persons, that such a one hath done or said some Things against the Faith, and the publick Report plainly discovers the common Insinuation. And by this Means the Process is carried on.

Direct. p. 3. *n.* 79. Then the Inquisitor causes certain Witnesses to be cited, especially grave and reputable Persons, and in the Presence of a Notary, and two Religious, or otherwise reputable Persons, inquires of them only concerning the Report. Whether 'tis the common Report of such a one, that he did or said such Things against the Faith? How they know there was such a Report? How long such Report hath been? Whether they know such Person to be defamed? Whether they know whence the Report arose? Whether from ill disposed Persons or others? And the like.

This is the Command of *Innocent*, Cap. *Qualiter & quando, de Accusat.* Hence we may gather how Infamy is proved. For the Witness must say, that the Person under Consideration is defamed of such a Crime. And when 'tis inquired of him, in whose Account he is infamous, he must answer with such and such; and unless he assigns them, he doth not appear to give a good Reason of what he says. Besides, it can't be known whether they are serious or ill disposed People.

Brunus *de hæret. l.* 4. *c.* 7. §. 10. When the Report is thus proved, the Inquisitor proceeds to inquire out the Truth of the Affair. For this Purpose he causes the Witnesses to be cited, and especially such as have been intimate with the Person accused, and other reputable Men, and zealous for the Faith; and after giving them their Oath, he inquires of them, not concerning the Report, but the Thing it self, in Presence of the Notaries, and two religious or reputable Persons. After this he proceeds to draw out a Confession from the Criminal himself. And first he goes to the Place of the Inquisition, where, when the Criminal appears before him, he tells him that he is excited and moved by the Fame and frequent Reports, that he the Criminal appearing and standing before him, hath taught, written, or publickly declared certain Things against the Truth of the Catholick Faith, or that he hath believed and favoured such who teach these Things, or received or defended them. That therefore he, according to his Office, cannot dissemble that there is such a Report; however, that he will not condemn him, till these Crimes are legally and plainly proved before him.

If

If the Criminal be not defamed of the Crimes laid in the Articles of the Inquisition, and he makes this Exception, the Promoter Fiscal and the Denouncer must necessarily prove the Defamation.

If this cannot be done, the Criminal is absolved from all farther Concern in Judgment. He may also prove himself to be a Person of good Report. For Instance, if he is accused of being defamed for defending the Doctrine of an Heretick, by some Writing that he published, he may prove that he confuted such Doctrine by writing against it; or if he be accused of harbouring an Heretick, in some House belonging to him, he may prove that he hath no Home in that Place, nor ever had since such Person hath been taken for an Heretick. He may likewise object, that such evil Report was raised of him by loose and infamous Persons, Enemies, Conspirators, and the like. Brun. de hæret. l. 4. c. 8. §. 11.

But if the Inquisitor proceeds and inquisits not at the Promotion, Denunciation or Instance of another, but *ex mero officio*, the Criminal is not to be heard when he excepts, that he is not defamed of the Crime objected to him; nor is the Judge obliged to regard such Infamy; for there is no Person who can oblige him to do it, unless the Criminal appeals. In this Case the Judge must inform his Superior of the Infamy of the Appellant. If also any one departs from the common Conversation of the Faithful in divine Worship, he is not to be heard, if he alledges that he is not defamed. For Inquisition may be made against him without Infamy. §. 12.

This is the Method of private Inquisition, according to *Eymerick* and *Brunus*. *Peter*, Bishop of *Elvas*, gives it in a somewhat different Manner, in his first Consultation. "Let this Manner be observed as to a private Inquisition. First, let the Parson of the Place or Country be sent for, and carried to a secret Place, and be required upon Oath to declare the Truth. When this is done, he must be asked if there is a Report that any Person is an Heretick, or suspected of the Faith in his District, or a Favourer or Receiver of them; and if he says there is, he must be asked, Whether the Report be general? If he can form any probable Conjectures from him, the Inquisitor commands him to name some good and reputable Persons, Men and Women, and makes also Inquiry of them upon Oath. If they agree, and it appears that they proceed not thro' Hatred, Envy or Revenge, he enjoins them Secrecy, and tells them he will keep the Matter secret himself, and that they need not fear. After this the defamed Heretick must be called to a private Place, in the Presence of some few Friars, and a Notary of a good Character, and be told; You are accused and named to me as an Heretick, or a Favourer or Receiver. But I am willing to proceed with you in a way of Peace and Secrecy, and therefore desire you will abjure every wicked Heresy, and give sufficient Security that you will not return to them. The Inquisitor must be careful not to discover the Accusers to the Persons accused. He must also say, If you will swear, and do what I desire you, I am ready to grant you my Letters Testimonial, that you are of the Number of the Faithful. But if you will not do it, I will declare before the People that you are an Here- *Tr. tr. fol.* 420.

"tick, or a Believer of them, nor can I ever receive you without publick "Penance; the Consequence of which is, that you must return and do Pe-"nance, or your Effects will be confiscated, you will be accounted infa-"mous, be avoided by all, and deprived of all common Privileges. But in "this Affair great Caution is to be used. In like Manner let the Inquisitor "be careful not to grant his Letters too generally, and especially not to those "who have been otherwise apprehended, because he ought not to do thus, un-"less they do publick Penance.

CHAP. VII.

How the PROCESS *begins by Accusation.*

WHEN the Accuser reports to the Inquisitor any Crime committed by another, and the Accusation hath the Appearance of Truth, they proceed in this Manner, according to the Instruction of *Eymerick*, which hath been long observed. First the Inquisitor inquires, whether the Accuser will accuse, and proceed in the Affair by way of Accusation, or not? If he says he will proceed by way of Accusation, he is to be admonished by the Inquisitor, that he renders himself liable to the Punishment of Retaliation, unless his Proof be good. But this Method of Proceeding the Inquisitor must not easily allow, because 'tis not customary in a Cause of the Faith, and because 'tis very dangerous, and greatly difficult to the Accuser. But if the Accuser persists, he must give his Accusation in Writing, which must be written by the Notary, in order to begin the Process. But others contend, that in the Crime of Heresy 'tis not necessary that a Person should oblige himself to the Law of Retaliation. And as they now seldom admit the Person of an Accuser, they have constituted a publick Minister, whom they call the Fiscal, who sustains the Person of the Accuser, and accuses the Criminals, who doth not oblige himself to the Punishment of Retaliation, nor any others which false Accusers usually suffer.

Direct. part. 3. 67.

Pegna, *Com.* 14.

71. Formerly, when the Process was carried on at the Instance of the Accuser, after the Accusation was made before the Inquisitor, the Inquisitor commanded the Accuser to produce the Names of his Witnesses, who being cited by the Inquisitor, are strictly examined upon Oath. If what they depose doth nothing concern the Fact, the Inquisitor must advise the Accuser, to withdraw the Word Accusation, and put in the Room of it Denunciation, that so the Inquisitor may proceed *Ex officio*, and not at the Instance of the Party, because so very dangerous to the Accuser. But if the Proof of the Witnesses be full, the Inquisitor produces them, and giving them their Oaths upon the four Gospels to declare the Truth, which he can oblige them to take if they refuse it, strictly examines them in a judicial Manner before the Notary and two religious Persons, or otherwise reputable. Then he interrogates them con-

concerning ſundry Things, as, Whether they know ſuch a one? As to the Occaſion and Time of their knowing him? Concerning his Character? Whether they have ſeen, or heard him ſay, or do any Thing againſt the Faith, and what that was? Where they ſaw him, how often, and who preſent? In what manner he ſaid thoſe Things, whether in Jeſt, or by way of Recital, or whether with a deliberate Mind, and by way of Aſſertion? And finally, whether they depoſe theſe Things thro' Hatred or Rancour? Or whether they omit any Thing thro' Love or Favour? The Anſwers of the Witneſſes to all theſe Queſtions are taken down by the Notary. Theſe Interrogatories of the Witneſſes may be oftentimes repeated at the Pleaſure of the Inquiſitors, that what was omitted in the former Interrogatories may be ſupplied. 72.

CHAP. VIII.

How the PROCESS *begins by Denunciation.*

BUT if the Accuſer ſays, as is commonly the Caſe, that he will not accuſe, but denounce; and that he doth this thro' Fear of incurring the Penalty of Excommunication, ordered by the Inquiſitor for diſcovering Things pertaining to the Faith within the preſcribed Term, then the Inquiſitor prepares himſelf to make Inquiſition. And becauſe this is the ordinary and moſt generally uſed Method of the Inquiſition, I will deſcribe it more largely and diſtinctly, that hereby the whole Method of making Inquiſition may be more fully underſtood. Eymer. p. 3. n. 61.

When the Denouncer, who is alſo called the appearing Witneſs, comes to the Biſhops or Inquiſitors, before the Notary takes his Denunciation in a juridical Manner, he is uſually asked, what he hath to propoſe? that they may know, whether what he is determined to denounce belongs to the holy Office. Becauſe ſometimes Country ignorant People, or thoſe who are troubled with Scruples, bring ſuch Matters before them, the Cogniſance of which doth not belong to the Inquiſitors. When they find that the Crime brought before them is cogniſable by the holy Office, they make the Denouncer ſwear that he will relate the Truth. After this the Notary receives the whole Denunciation before the Biſhop or Inquiſitor, or their Vicar, taking down the Denunciation, or the Report of the Denouncer in the firſt Perſon. And that there may no Doubt ariſe as to the Validity of the Oath, to ſpoil the Credit of the Denunciation, as the Inquiſitor doth not only take an Oath from the Denouncer, or Witneſs voluntarily appearing, but alſo from the Witneſs who is cited, upon the holy Scriptures touched with their Hands, ſo 'tis farther requiſite, that the Notary ſhould write at length, that ſuch a one *took his Oath touching the Scriptures*, and not only write down, *touching* with an *&c.* that there may be no Difficulty in defending ſuch Acts upon account of this Defect. Pegna, *Prax. Inq.* l. 2. c. 1.

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Cap. 2. The Oath being taken, the Denouncer is interrogated concerning various Things by the Inquisitor. "First, if he be not a well known Person, he is "interrogated concerning his own Name, Surname, Country, Employment, "and Place of Abode. Then, how long he hath known *N.* against whom "he denounces? Likewise how he came to know him? Again, whether he "observed that the aforesaid *N.* was suspected of Matters relating to the "Faith from his Words, or his Actions? Likewise, how often he had seen the "said *N.* do or say those Things for which he thought him an Heretick, or "suspected of Heresy? Likewise, at what Time, and in the Presence of "whom the aforesaid *N.* did or said those Things of which he is denounced? "Likewise, whether the aforesaid *N.* hath had any Accomplices in the afore-"said Crimes, or any Writings belonging to the Offences denounced? Like-"wise, to what End and Purpose the aforesaid Things were done or said by "the aforesaid *N.* whether seriously, or in Jest? If it appears that there was "a long Interval of Time between the Commission of the Crimes denounced, "and the making the Denunciation, the Inquisitor interrogates the Denoun-"cer, why he deferred so long to come to the holy Office, and did not depose "before, especially if he knew, that he incurred the Penalty of Excommuni-"cation by such Omission." They account this Interrogatory necessary for two Reasons. First, because the Delay of Denouncing may give a just Presumption of Calumny in the Denouncer. Secondly, that it may be known, whether he hath been compelled by his Confessor to denounce, upon his Refusal to absolve him without denouncing, in which Case greater Credit is given to the Denouncer. "He is moreover asked, whether he knows any "Thing farther of *N.* which concerns the holy Office, or of any other Per-"son? Likewise, whether he hath at any time had any Cause of Hatred or "Enmity with the aforesaid *N.* and whence it proceeded? With what Zeal, "and with what Intention he comes to the holy Office, and to make Denun-"ciation? Whether he hath denounced thro' any Passion of Mind, ill Will, "Hatred, or Subornation? And he is admonished ingenuously to tell the "Truth." He is especially interrogated how he came by his Knowledge, because on that principally the Truth and Weight of the Testimony depends. From the Denunciation, and the Answers to these Interrogatories they form other Questions, that there may be nothing wanting in the Inquisition. And whatsoever the Denouncer answers to these Interrogatories, the Notary writes down.

The Denunciation thus received, three Things are usually observed before the Denouncer goes from Audience. First, the whole Denunciation, as written down, must be read over to the Denouncer, that he may add, take away, or alter as he pleases. Secondly, the Denouncer must subscribe to his Deposition; or if he can't write, he must at least put under it the Sign of the Cross. Thirdly, the Denouncer must take an Oath of Secrecy. All these Things are exactly written down by the Notary.

If thro' Straitness of Time, or a late unseasonable Hour, or the Length of the Denouncer's Account, the whole Denunciation cannot be taken at once, the

the Deposition must be broke off, and it must be minuted down, that the Examination was dismissed thro' the Lateness of the Hour, and that the Denouncer was ordered to return soon to the holy Office. And this he must subscribe. When he comes again to continue his Denunciation, he must again take his Oath before the Inquisitor and Notary, touching the holy Scriptures, that he will speak the Truth, and be admonished to report what he omitted in his former Appearance, such a Day of the Month in this holy Office. But if it can be done, tho' with some Inconvenience to the Judge, they say Care must be taken not to interrupt the Depositions of the Denouncers, or Witnesses who are cited.

Sometimes the Denouncers bring with them their Denunciation written down by themselves, which they give to the Inquisitor. When this is done, the Inquisitor receives it in the Place of Audience, and gives it to the Notary to insert in the Process. The Notary also further inserts in the Acts, that *N.* delivered his Denunciation in Writing to the said Inquisitor, containing so many Leaves, beginning thus, *&c.* and ending thus, *&c.* and the Inquisitor commands the Denouncer to subscribe his Name.

When the Denouncers are not present themselves, and denounce any ones *Cap.* 3. Heresy, not in Person, but by private Letters, such a Denunciation may be also received by the Inquisitor, if the Writer of the Letters be a Person of Credit, dwelling in remote Places, or sick, or prevented by any legal Impediment, so that he cannot easily come himself to the Inquisitor; or if he be detained upon account of any peculiar Quality, such as Nuns, or other honourable Women, who must not easily be drawn by others into any publick Cause. But the Inquisitors may supply the Defect in this manner of denouncing by this Method, either by going himself with the Notary to the Denouncer, and examining him in the Manner already described; or by sending his Colleague or Vicar to him with the Denunciation Letters, concerning which he examines the Denouncer in the usual Manner, to know whether they are his, and with what Design and Reason written. Or if the Inquisitor hath already in such Places a Vicar or Commissary appointed, he may write to him, and send him the private Letters of Denunciation, to examine the Denouncer upon Oath after the usual Manner. As to the Denunciation made *Annot.* by a Nun, she is obliged to denounce before her Confessor, who demands Caren. Leave and Faculty from the Inquisitor to receive the Denunciation, which as *n.* 4. specially deputed he takes, first giving her her Oath, making her subscribe, and enjoining her Secresy. And he must thoroughly interrogate and search her. But in this Case, the Confessor must receive from the Nun a Command of making Denunciation to the Inquisitor out of Confession. The Form which they observe in taking this Denunciation is as follows. *Such a one was dismissed from her Confessor, who would not absolve her, unless she denounced to the holy Office. Upon which she appeared before me* N. *especially deputed by the most Reverend Father Inquisitor, the Day .... Month ..... Year ..... and being given her Oath, which she took touching the most holy Gospels, she denounced, for the exonerating her Conscience, as she declared, after the following Manner,* viz. &c.

CHAP.

CHAP. IX.

Of the Witnesses, and who are admitted as Witnesses before the Tribunal of the INQUISITION.

AFTER the Denouncer hath discharged his Duty by legally denouncing, he hath no farther Concern, but the whole Affair is left to the Inquisitor to make Inquisition concerning the Offence of the Offender, from the Witnesses named by the Denouncer. Before therefore we proceed to the Examination of the Witnesses, we must premise some Things concerning the Witnesses themselves, *viz.* as to their Person and Number.

All Persons may be Witnesses as well in Civil as Criminal Causes that are not expresly prohibited. In the Affair of the Inquisition, in Favour of the Faith, all Persons, even such as are not allowed in other Tribunals, are admitted as Witnesses, Enemies only excepted. But here they distinguish between the Accuser or Denouncer, and the Witness. For although an Enemy can never be a Witness, he may be an Accuser or Denouncer, and his Denunciation must not be neglected by the Inquisitor, according to *Campegius.*

Campeg. *in* Zanch. *c.* 13. *d.*

" In the Crime of Heresy any one may be an Accuser, even an Enemy. " For as the Judge doth not condemn according to the Petition of the Accu- " ser, but the Proofs of the Witnesses, there can be little Danger if an Ene- " my be admitted to accuse. He adds, that he hath often found in the Ex- " ercise of this sacred Office, that Enemies have made, not a false but true " Denunciation, which he hath known to happen by heavenly Counsel and the " just Judgment of God. For this blind World can't as yet understand the " Wickedness and Pravity of this Crime; and therefore we see that Mor- " tals are more ready to accuse and punish Thieves and Murtherers, than to " correct and condemn Hereticks. Yea, when Inquisition is made against " any one for Heresy, or he is taken up, all run together, and pray, and be- " seech, excuse, and endeavour to defend him, and say that they are wicked " and very vile Persous, who would mark the poor Man for an Heretick. Be- " sides, they call the Officers very cruel, if they strive to reduce an " Heretick to the Light of Truth, by Imprisonment, Bonds, and Fetters, " or finally by Tortures, and think they do God great Service, if they strive, " tho' unjustly, to free him from Imprisonment and Bonds, and to deliver him " out of the Hands of the Inquisitors. They would rather he was dismissed, " as they say, only with holy Water. If we answer and put them in mind of " the Crime of High Treason against earthly Majesty, they reply, this is " quite another Thing, that the Cases very much differ, and the like. As " tho' 'twas a less Thing to offend the great God than an earthly Prince. " These Things are rather to be lamented than rehearsed. Let us therefore " pray the Lord to open the Eyes of those blind Persons, and to preserve his " holy Faith, and to defend and protect the Ministers of this Office. For it

" happens,

" happens, as we said before, thro' the Disposal of God, bringing this Good " out of another's Wickedness, that one Man shall not discover another whom " he knew to be an Heretick, during their Friendship. But upon the ari- " sing of some Enmity between them afterwards, he immediately goes to the " Inquisitor, and now denounces against the Person whom he hath long known " to be an Heretick, and says that he doth it thro' a Zeal for the Faith, and " with a Regard to Charity, altho' possibly he is induced to it by the Influ- " ence of Hatred. Therefore the Inquisitor ought diligently to attend to the " Quality of the Deponents or Denouncers, and very exactly and cautiously " make Inquisition concerning the Truth of the Things attested and said, and " well to remark the Words of the Chapter, *In Fidei favorem*, de hæret. " lib. 6. *viz.* Whether or no those who thus testify may be presumed not to " speak Falsehood, from likely Conjectures, and the Number of the Witnes- " ses, or the Quality of the Persons, as well those who depose, as those who " are deposed against, and from other Circumstances."

But 'tis quite otherwise as to Witnesses themselves, for an Enemy is not admitted as a Witness. Not that every sort of Enmity prevents a Person from being a Witness, but mortal Enmity only. Thus the Council of *Biterre* determines, *Cap.* 13. and that of *Narbonne*, Cap. 25. *Such Exceptions only shall wholly destroy the Credit of the Witnesses, which seem to proceed not from a Zeal for Justice, but from the Instigation of Malice*, viz. *Conspiracies and mortal Enmities. For although other Crimes weaken, they do not set aside the Evidence, especially if the Witnesses have amended their Fault.* So that, according to this Decree, several Crimes do indeed lessen the Credit of the Evidence, but do not wholly render the Persons incapable of being Witnesses. In like manner every sort of Enmity doth indeed somewhat weaken the Weight of the Evidence, but don't entirely overthrow it, unless it be mortal Enmity. Simanc. *t.* 64. §. 79, 80.

The Causes by which we are to judge of mortal Enmity are various, and determined by the *Spanish* Law. If any one hath killed, or endeavoured, or even threatned to kill the Kinsman of that Person against whom he would bear Witness, if he hath laid Snares for his Life, or accused him of a Crime, which, if proved, would be punished with Death, Loss of a Member, Banishment, or the Forfeiture of all, or the greatest Part of his Estate. To these *Pegna* adds some other Things, which, however, are not determined by that Law, *viz.* if any one deposes against him in a criminal Cause; or if the Party accused hath at any time put his Accuser in Chains; or even if he hath spoken very reproachfully of him, *viz.* if he hath called him Cuckold, or his Wife a Whore; or called a sober Man a Drunkard, *&c.* In these Cases, however, he says the Circumstances of the Persons, reproaching each other, should be considered; as whether they are vile and infamous Persons, who have little Regard to their Honour, and are given to reproachful Language, and so easily forget what they say; or whether they are noble, and well born: Besides this, the Custom of the Provinces and Cities are also to be regarded. Farther, he says that mortal Enmity may arise from one Man's Pegn. *in p.* 3. *com.* 116. *Ibid.*

keeping another's Wife, contrary to his Consent and Demand, or his Sister, or any other Women related to him, the very Attempt upon whose Chastity is an Injury to him. Or if any one goes to Law with another concerning his Condition, to prove him only a Freedman, not Free-born, or about his Estate, or greatest Part of it, or for a large Sum of Money, or for robbing him of, or destroying a Thing of great Value, or when any one injures another in his Person or Effects. Farther, he cannot be a Witness, if having been an Enemy a long while he is newly reconciled, or who descends from a mortal Enemy; nor one who lives with another's Enemies, or contracts Friendship with them. Finally, nor they who are of a Family or Faction contrary to another Family or Faction. However, if the Witnesses are Persons of tried Virtue and Probity, they would not be liable to such a bad Suspicion. This Suspicion also ceases, when the Enmity is procured by Fraud and Deceit, and with this View, to prevent any one's being a Witness; or when there hath been a long and well-grounded Reconciliation between the Persons who were Enemies, as to which, 'tis left to the Pleasure of the Judge to determine. And because the Names of the Witnesses are not discovered to the Person accused, as shall be fully shewn hereafter, because of the Danger that might accrue to them, the Inquisitors are ordered to enquire concerning the Enmity of the Witnesses, and to search out if there are any Causes, from which it may be probably gathered that there is mortal Enmity between the Criminal and them, the whole of which is left to the Prudence and Pleasure of the Inquisitor. But if an Enemy be reconciled, he may be a Witness, provided the Reconciliation be not new, but of long standing. Whether it be one or the other, the Inquisitor is to determine.

Lucern. *Inq. in voc.* Testes. §. 5.

Here they enquire, whether Credit is to be given to a Witness, who says he is the Enemy of that Person against whom he is interrogated? And they usually answer with this Distinction. Either the Witness says he is his Enemy before he swore, or was produced as a Witness; and thus he is presumed to have said it fraudulently, and must therefore be received; but if it doth not appear that he said it fraudulently, he must not be received, especially if it be mortal Enmity. But if it be not, or there be any Doubt about it, the Judge must not desist for the bear Affirmation of such Witness, but must enquire into the Nature of the Enmity, because, as was said before, every sort of Enmity doth not disable a Person to be a Witness. But if he declares himself a mortal Enemy, he must not be received. But if the Enmity is not mortal, he must be allowed, and the Judge must determine what Credit is to be given to him. Or he declares himself an Enemy after he is sworn, but before he deposes, and then he is not to be credited; or after he hath sworn and made Deposition; and if he declares himself an Enemy immediately after he hath finished his Deposition, he is credited as to the general Interrogatories; but if he declares himself an Enemy some Distance of Time after, he is not regarded, but his former Deposition must be abided by.

Pegna *in p.* 3. *com.* 113.

But except these mortal Enmities, almost all kind of Persons may be admitted as Witnesses by the Inquisitor. First, Persons excommunicated, and

guilty

guilty of the ſame Crime, Cap. *In Fidei favorem*, de hæret. lib. 6. *We grant in Favour of the Faith, that in the Affair of the Inquiſition of heretical Pravity, Perſons excommunicated, and Partakers, and Perſons guilty of the ſame Crime, ſhall be admitted to bear Witneſs, eſpecially when there is a Deficiency of other Proofs againſt Hereticks, their Believers, Favourers, Receivers, and Defenders, if it may be preſumed from probable Conjectures, and the Number of Witneſſes, or Quality of the Perſons, as well thoſe who depoſe, as thoſe who are depoſed againſt, that ſuch Witneſſes do not ſpeak falſely.* In this the Council of *Biterre* agrees, Cap. 12. *Altho' in this Crime all Criminals and infamous Perſons, and thoſe who are Partakers of their Guilt, may be admitted as Accuſers and Witneſſes.* The Decree of *Alexander* IV. is to the ſame Purpoſe, *An.* 1261. *Feb.* 1. beginning, *Conſuluit nos.*

Next to Perſons excommunicated are joined Hereticks, *Jews*, and Infidels, who, in the Crime of Hereſy, are admitted as Witneſſes againſt Hereticks. But becauſe 'tis provided by the Laws, that Hereticks ſhall not be admitted as Witneſſes, an Heretick is not allowed as a Witneſs for one of the Faithful. But if an Heretick, whether in Priſon or elſewhere, charges one of the Faithful, or one who is eſteemed as ſuch, with the Crime of Hereſy, or as a Partaker of his Crime, tho' this doth not amount to half Proof, ſo as to occaſion his being apprehended, yet it is Diſcovery enough to proceed to a ſecret Inquiſition againſt him. But, as was ſaid, the Teſtimony of an Heretick againſt an Heretick, is admitted, but not for an Heretick. They affirm the ſame of a *Jew* and an Infidel, who, when they are admitted as Witneſſes, muſt not ſwear upon the Goſpels as Chriſtians do, but according to their own Laws.

Pegna, *ib. com.* 117.

In like manner the Teſtimony of a Wife, Sons and Daughters, or Domeſticks, againſt Perſons accuſed of Hereſy, is allowed, but by no Means in their Favour and Behalf. C. *Filii*, de hæret. lib. 6. The Reaſon *Simancas* gives, why Kindred are admitted as Witneſſes againſt Kindred, is, becauſe they can't poſſibly be ſuſpected. Yea, ſome add, that when other Proofs are wanting, the Judge may compel not only a Brother, but even a Wife, or Son, to witneſs againſt a Father. Servants alſo may be tortured againſt their Maſters.

Tit. 64. §. 47. Carena, *p.* 3. *t.* 5. *n.* 21.

Even perjured Perſons, who having taken an Oath before the Inquiſitors to ſpeak the Truth, have forſworn themſelves by concealing it, and would afterwards correct themſelves, and ſwear back again againſt themſelves and others, are to be admitted, if it plainly appears that they act not from Levity of Mind, nor the Inſtigation of Enmity, nor from being corrupted by Money, but from their Zeal for the Orthodox Faith, and that on this Account they would diſcover in Favour of the Faith what they had concealed before, according as *Alexander* IV. hath decreed, and as may be found in the VI. of the Decretals. And altho' perjured Perſons are not allowed as Witneſſes even after Repentance, yet 'tis quite different in a Cauſe of the Faith; and the Doctors obſerve, that ſuch a one's ſecond Depoſition muſt be ſtood to, when hereby he diſcovers the Crime of Hereſy. But if when he takes his ſecond Oath, he denies what he depoſed concerning Hereſy when he took his firſt, the firſt Depoſition muſt be ſtood to, and not

the second; for which they give this Reason, because he may have spoken with the Criminal, and so is presumed to be corrupted and suborned, and therefore his first Deposition stands firm.

Carena, p. 3. t. 5. §. 12. Farther, infamous Persons may be admitted as Witnesses in this Tribunal, such as Whores and Bawds, when they testify of Things done in the Bawdy-House. Such also as are under the Ban, whom the Inquisitors may cite before their Tribunal, and grant a safe Conduct, that they may be examined as Witnesses in the Tribunal of the Inquisition, altho' the secular Prince hath put them under the Ban, because the Inquisitor is greater than any supream secular Judge, and may proceed in Causes of the Faith freely, and without any Impediment whatsoever of Law or Fact. Usurers also, Bastards, common Blasphemers, common Gamesters, Persons quite drunk, and not only exhilarated by Wine, Stage-Players, and Prize Fighters, Apostates from Religion, Persons bastinadoed, Bankrupts, Traitors, Backbiters and Spendthrifts. But they add, that these are not Witnesses above all Exception, and that they amount only to half Proof; that they may be admitted to prove Heresy, and the substantial Circumstances that prove it, such as Familiarity with Hereticks, secret Conventicles, and the like, but not the external Circumstances necessary to it, Baptism for Instance, which is pre-requisite in the Case of Heresy. Besides the Number of Witnesses may make good their Incapacity, though every one singly should be incapable of being a Witness, yea if the Number be large, 'tis sufficient to inflict the ordinary Punishment. This Number they fix, and say that four are sufficient to condemn the Criminal to the ordinary Punishment. Others leave it to the Inquisitor to determine the Number.

Lucern. Inq. in voce Testes. §. 12. Here 'tis to be observed, that a Witness, whatsoever he is, saying one Thing out of the Trial, is not allowed to say the contrary in the Trial, so that they stand to what he first says, unless 'tis to be presumed that he spoke fraudulently. As if a Witness of mean Fortune should say in the Presence of some great Person somewhat in his Favour, and afterwards should say upon Oath the contrary, what he first says must not stand good, because 'tis presumed he said it to please the Party, but what he afterwards says at the Trial must be allowed, because 'tis supposed he speaks Truth through Fear of his Oath. 'Tis otherwise where there is no such Presumption.

CHAP.

CHAP. X.

Of the Number of the WITNESSES.

AS to the Number of the Witnesses, 'tis generally believed that two Witnesses are sufficient fully to prove Heresy, and to condemn any one for Heresy. But 'tis necessary they should be worthy of Credit, and, as they say, above all Exception. Hence it is, that tho' excommunicated Persons, and those guilty of the same Crimes, are not absolutely rejected from being Witnesses against Hereticks, their Defenders, Receivers, and all other suspected Persons, yet full Credit is not to be given to them, unless it appears that they speak Truth, from probable Conjectures, the Number and Quality of the Persons, and other Circumstances. C. *In Fidei favorem*, de hæret. lib. 6. Eymer. *p.* 3. *qu.* 71. *com.* 120. Simanc. *tit.* 64. §. 36.

The Informer or Denouncer is now also reckoned amongst the Witnesses. For altho' no Man can be Accuser and Witness in the same Cause, yet he who discovers an Heretick to the Judges is a legal Witness. For, as they say, such a Witness is not influenced by any private Advantage, but by a Zeal for the most holy Religion, and for the publick Benefit of the Catholick Church, and with a View to the Amendment of the Heretick. Nor can he have any private Interest to discover an Heretick, but only as being of the Number of the Christian People, in which Case they affirm the Testimony of the Informer to be compleat. Simanc. *t.* 19. §. 17. &. *t.* 64. §. 55.

Several single and entirely different Witnesses have no more Weight than one Witness. §. 63.

There are some who say that a Man may be proved to be an Heretick by single Witnesses, as if one should witness against him for one Heresy, another for another, and others likewise for other Heresies. In such a Case they assert it will be proved in general, that the Man is an Heretick. But as particular Heresy can't be proved by single and separate Witnesses, so neither can it be proved that any one is an Heretick in general by the same Witnesses; for by the same way it might be proved that a Man was a Catamite in general, upon which Occasion *Simancas* gives us a pleasant Story. A certain Person, a Year ago, cried out, and said, it was proved in general by single Witnesses, that such a one was a Catamite. I remember, says he, I answered, if this wicked Crime is proved in general, let the Punishment likewise be inflicted in general. Let the Individual be safe, and, if you please, let the Catamite in general be burnt. §. 68. §. 70. §. 73.

Yet there are two Cases, in which Heresy may be proved by single Witnesses. The first is, when the Witnesses testify of the same Species of Heresy, but are different as to the Place and Time. For they agree in the Proof of the same Heresy, whereas the Place and Time are quite foreign Things, and are not necessary Circumstances to the Proof of Heresy. The second is, when §. 75. §. 77.

when single Witnesses aim at the same End, are many in Number, and worthy of Credit.

Direct. part. 3. q. 71. com. 120. But *Pegna* says, if there are many single Witnesses, and one deposes as to the Fact, another as to the common Fame, one as to what he saw, another as to what he heard, the Criminal cannot be condemned, no not altho' the common Fame, legally proved, strengthens the Testimony of the single Witness. However, the Inquisitor may at Pleasure enjoin such Criminals Purgation, or any other Penance. If several Witnesses testify separately of different Heresies, and a different Time and Place, this will not prove a Man an Heretick; no, nor is it full Proof if they testify of the same Heresy, but differ as to Time and Place. But if any one is convicted by more than two proper Witnesses, and will not confess, some say they must wait for some time, and see if they can find out Witnesses agreeing in all Things; but first the Criminal is to be tortured, that if it can be they may draw the Truth from his Mouth. If he confesses nothing he may be most justly compelled to abjure as one vehemently suspected, or to undergo canonical Purgation, because, in this Case, he cannot be thought to have purged away the Evidence by Torture, since the Proofs against him are many and strong.

Part. 3. com. 121. However, in such a Case, 'tis left to the Inquisitors Pleasure to proceed as they think fit, as 'tis expresly commanded in the Constitutions of the Bishop of *Albano*, Legate of the Apostolick See, who, 'tis probable, was appointed Legate, and published by the Pope's Commission many Constitutions, relating to the Punishment of Hereticks, and the Order of proceeding against them, about the Time when the poor Men of *Lions*, or the *Albigenses* and other Hereticks infested the Countries of *France* and *Lombardy*. These Constitutions are very useful to private Inquisitors, to enable them to determine rightly and profitably Causes and Controversies of the Faith, and are extant in an old Parchment Manuscript in the *Vatican* Library, and in a very old one at *Florence*. Amongst other Things in it 'tis thus determined. *But when the Witnesses or Informers differ in what they depose, but yet agree in the Substance and Nature of the Thing, we leave it to the Pleasure of the Inquisitors so to proceed, as, in the Sight of God, they shall think fit, especially if common Fame, and the Fitness and Credit of the Deposers agree and make against him, who is to undergo the Inquisition.*

CHAP. XI.

Of the Examination of the WITNESSES.

Pegna, Prax. Inq. l. 2. c. 5. AFter having thus spoken of the Witnesses themselves, I now come to their Examination. When therefore the Witnesses named by the Informer are found out, the Inquisitor orders them to be cited by his spiritual Messenger,

Messenger, to the Office of the Inquisition, where, when they come, they are legally examined. First, they take an Oath upon the Scriptures to speak the Truth. After this he is asked by the Inquisitor, whether he knows, or can guess the Cause of his Citation and present Examination? If he says yes, he is interrogated how he knew it? If he says no, he is interrogated, whether he hath known, or doth now know any one or more Hereticks, or Persons suspected of Heresy, or at least is able to name any such? Whether he knows *N?* What was the Occasion of his Acquaintance with him? How long he hath known him? Whether he hath been used to converse with him? Whether he hath heard at any time any Thing from the said *N.* concerning the Catholick Religion? Whether ever he was in such a Place with the said *N.* and whether the said *N.* did or said there such and such heretical Things, or savouring of Heresy? Who were present when *N.* did or said the aforesaid Things? How often he saw them said or done, and on what Occasion, and how? Whether the said *N.* spoke the aforesaid Things in Jest, or without thinking, or thro' a Slip of his Tongue, or as relating the Heresies of some other Person or Persons? Whether he said any Thing which ought not to have been said thro' Hatred or Love, or omitted and concealed somewhat that ought to have been explained? He is farther admonished to tell the single Truth, because, if he is detected of speaking falsely, he will be made to suffer the Penalties, not only of Perjury, but of favouring Heresy, and that therefore he ought to tell the Truth, and beware of Lies. Because, if it appears to the holy Office, by Witnesses worthy of Credit, that the Witness himself is conscious to the Things concerning which he is interrogated, and conceals and hides them, he may be confined, and compelled to give Security, and to oblige himself not to depart from that City and Place where he is examined, and under a Penalty, fixed by the Inquisitor, to make his Appearance as often as and wheresoever the Inquisitor shall command him. When the Truth cannot be found out from the Mouth of the Witness and these general Interrogatories, the *Italian* Inquisitors come to particular Interrogatories concerning the Place and Person denounced, that so the Truth may be discovered, after which the Witness is dismissed, being first injoined Secrecy upon Oath, and signing what he hath said. All these Things are taken down by a Notary, and inserted into the Acts of the Process. *Simancas* gives a short Account of this Matter, *Tit.* 44. §. 11.

Carena, *Annot. Ibid.*

" When the Witnesses come to the Inquisitors, to testify against Here-
" ticks or suspected Persons, they are to be exhorted and admonished, that
" they don't dare to give false Witness thro' Hatred, Enmity, or other evil
" Affection. And besides, it must be declared to them, how heinous a
" Wickedness all false Witnesses commit, but especially those who defame
" innocent Persons with the Crime of Heresy. But if they affirm that they
" are moved only by a Zeal for the Catholick Faith, their Testimonies are
" to be written down."

'Tis the Custom in some Inquisitions, that before the Criminal is apprehended, the Witnesses named by the Denouncer should, after two or three

Days,

Days, be cited again, and interrogated upon Oath, laying their Hand on the Scriptures, whether they have any farther Truth to communicate besides what they deposed in their former Examination. And whatsoever is the Answer, the Notary takes it from his Mouth.

If there be Reason to apprehend from the Circumstances of the Witness, that he will discover the Cause, he is enjoined Silence, under the Penalty of Excommunication, *latæ sententiæ*, after a single Admonition, and other Penalties, at the Pleasure of the holy Office. Sometimes also, for just Reasons, they take Care and command the Witness or Witnesses not to depart from the Palace or House of the Inquisitor, without the express Leave of the Inquisitor, written under his Hand.

After the same Manner all other Witnesses named by the Informer in his Information, are examined.

But if the Informer be also a Partaker and Partner in the Crime, and when informing against his heretical Companions, deposes nothing against himself, and any Thing appears against him from the Examination of the Witnesses or Accomplices, he is cited by the Inquisitor, and proceeded against as a Criminal, but punished in a milder Manner, because of his having informed against others.

In the Examination of Witnesses, in many Places, there must be five Per-
Eymer. p. 3. sons present. The first is the Judge, *i. e.* the Inquisitor or his Commissary, whose Business is to examine the Witnesses and Persons accused, by forming
81. Articles and Interrogatories upon them. The second is the Witness. Every one of these must first swear to speak the Truth, otherwise their Deposition
82. will be invalid, according to the Precept of the Council of *Biterre*, Cap. 4. *Give to all those, who being cited before you, appear within the Time assigned them, their Oath, to tell the entire and whole Truth concerning the Fact of heretical Pravity, which they know of themselves, or of others, living or dead.* The Form of the Oath is commonly this: *I swear by God and the Cross, and the four most holy Gospels, now touched with my Hands, that I will speak the Truth. If I do, so help me God; if I do not, so God condemn me.* The third Person is the Writer, who
83. writes down the Interrogatories of the Inquisitor, and the Answers of the Person accused, and the Witness. He must be a publick Person, *viz.* a Notary that hath Authority, either a Layman or Clergyman, or a Religious. But when the Inquisitor cannot have such a publick Person, or Notary, he may chuse two proper Persons, Secular, or Ecclesiastical, who jointly have the Power and Authority of one publick Person, and these two act by the Apostolick Au-
84. thority in Writing. The fourth and fifth Persons are two who assist the Inquisitor, and are Witnesses to the whole Examination, and they must be two discreet Men, religious, or otherwise reputable. But when the Inquisitor cannot conveniently have these two Persons present at the whole Examination of the Witness or Person informed against, he must, at least, have them at the End of the Deposition, when the Deposition is read over by the Notary to the Witness that deposes, or the Informer, in the Presence of the Inquisitor, and the two aforesaid discreet Persons, and then the Witness is asked if he stands

to

to and perseveres in that Deposition. If he doth, 'tis written in the Acts, how that in the Presence of such Persons the Deposition was read to him, and he stood to it, and persevered in it. And this *Eymerick* thinks is sufficient. But as *Pegna* tells us, *Comment.* 112. the Processes are now carried on in the holy Tribunal generally without the Presence or Intervention of these Persons, and the supream Senate of the *Roman* and general Inquisition allows the Processes thus formed. And indeed these two Persons are of no Use. The Pretence for their being present is, that there may be no Suspicion of foul Play, when the Things transacted are seen by so many Eyes, and open to so many Senses; and that they may know the Witnesses in the Stead of the absent Criminal, as *Simancas* declares, *tit.* 64. §. 8. & 21. But how doth it make any thing to the Defence of the Criminal, that his Accusers are known to Persons that he himself knows nothing of, and who are forbidden to discover any Thing to him?

The Witnesses must be examined by the Inquisitors themselves, nor must their Examination be committed by any Means to any one else, unless the Witnesses are justly hindred, and the Judges cannot easily go to them, or ought not. In this Case the Inquisitors may commit the Examination of the Witnesses to the Bishop's Vicar, or other Ecclesiastical Judge, or to some skilful and prudent Man, who, with a Notary or Secretary to write down the Depositions in the Cause, must diligently examine the Witnesses, and send the Manner and Constancy, and other Circumstances of the Witnesses and their Depositions to the Inquisitors. 1 *Instruct. Hispal. cap.* 17. and 4 *Instruct. Tolet. c.* 14. Simanc. *tit.* 68. §. 11.

CHAP. XII.

How the CRIMINALS, *when informed against, are sent to Jayl.*

WHEN the skilful Men or Counsellors are called together to give proper Advice, either as to the Quality of the Propositions, or the Weight of the Proofs and Discoveries, or as to the Process or giving Sentence, or any doubtful Article of the Cause, that nothing may appear in the whole Affair but a burning and serious Zeal for the divine Glory, they make solemn Prayers to the Holy Ghost, which are usually said over in all the Congregations. The Inquisitor and Counsellors say them on their bended Knees. The Form is this: Pegna, *prax. Inq.* l. 2. c. 9.

We are here present, O God, the Holy Ghost, we are here detained with the Greatness of Sin, but gathered together specially in thy Name. Come to us, be present with us, vouchsafe to enter into our Hearts, teach us what we should do, where we should walk, and shew us what we ought to perform, that we may be able to please thee, assisting us in all Things. Be thou the Health, the Suggestor and Maker of our Judg-

Judgments, who alone with God the Father and his Son, possessest a glorious Name. Suffer us not to be Perverters of Justice, O thou who lovest the strictest Equity. Let not Ignorance draw us to the left, let not Favour bend us, nor Regard to Office or Person corrupt us, but join us to thy self effectually by the Gift of thy only Grace, that we may be one in thee, and in nothing deviate from the Truth; and as we are gathered together in thy Name, so let us in all Things preserve Justice moderated by Piety, that our Sentence here may in nothing differ from thee, and that hereafter we may obtain everlasting Rewards for our good Deeds. When the Prayer is ended, all answer *Amen.*

This Prayer, in the Time of *Carena*, was recited in the Inquisition at *Cremona*, by Cardinal *Camporeus*, Bishop of that City, the Inquisitor on his right Hand at a Corner of the Table, and the Vicar General at his left at another Corner, and the other Counsellors in their Order, all on their Knees. But if a single Bishop only is present, then the Bishop and Inquisitor sit at the Head of the Table, their Seats being equal, in all the Inquisitions in *Italy*. But the Bishop sits by Virtue of his Episcopal Dignity in the Seat placed on the right Hand, and the Inquisitor in the other.

Pegna, *Ibid. c.* 7.

These Prayers being over, the Inquisitor consults whether the Cognisance of the Crimes which are denounced and proved by the Witnesses, belongs to the holy Office. If there be any Doubt of this, he must call in the Qualificator Divines, who must give their Opinion written and subscribed with their own Hand, that it may be inserted in the Process, as the Foundation of the Jurisdiction of the Inquisitor. If the Crimes are small, or the Propositions only sounding ill, scandalous or blasphemous, or which do not include formal Heresy, no one upon account of these is immediately ordered to secret Imprisonment, but must rather be confined in some Monastery, or in his own House, or City. If these Things were omitted, the Inquisitors might possibly usurp to themselves Causes belonging to other Tribunals. Thus *Carena* relates, that on the first of *August*, *Anno* 1630. two *Portuguese* Women at *Placentia* received the Eucharist twice; and being interrogated why they did it, they answered, because they apprehended, that as often as they communicated, they obtained the Jubilee of a Part, as they call it. On this they were kept in the Prisons of the Inquisition, and their Effects sequestred. But when the Lords Inquisitors found that the Cause did not belong to the Tribunal of the Faith, they dismissed them from Jayl, and caused their Effects to be restored to them. This Consultation with the Counsellors is recommended by the *Madrid* Instruction, *An.* 1561. cap. 3. *When the Inquisitors have seen the Information together, if they are present, let them consult as to the taking them up, which would appear more just if done with the Advice of the Counsellors of the Inquisition, if it conveniently can be, and it appears to the Inquisitors convenient and necessary; and whatsoever is determined, let it be inserted in the Acts.*

A not. ad. cap. 7.

Carena, *lib.* 3. *tit.* 2. §. 6.

No one can be taken up without half full Proof at least, or such Evidence as is sufficient to put to the Torture, because the Imprisonment made by the Inquisitors always renders the Prisoners infamous. But if the Person be otherwise suspected, for Instance, if he be of the *Moorish* Race, and hath been denounced

denounced before the Inquisitors, upon account of some Ceremonies of that Nation, he may possibly be imprisoned upon the Affirmation of one Witness, even tho' liable to some Exception, according to *Carena*, because the Presumption arising from his Birth, joined to the Deposition of such a Witness, would amount to an half Proof. And he gives an Instance, that in the supream Council of the *Spanish* Inquisition, two Men were taken up for Heresy, at the Information of one Woman, under eighteen Years old, because they were both of *Moorish* Extract, and because the Ceremonies witnessed to by the Woman were *Mahometan*. And thus the Presumption was against them, because they were of that Race. *Zanchinus* enumerates more particularly several Causes for which Persons may be imprisoned. Zanch. c. 10. §. 1.

"If Inquisition be made against any one, he is imprisoned, if, tho' the Crime be so small as that Bail may be taken for it, he doth not give the necessary "Bail. Or if Inquisition be made against him for some detestable and grie-"vous Crime, and there are Proofs against him, or if he himself hath confessed "such a Crime as renders him liable to the Punishment of an Heretick."

The Consultations which are held on these Affairs, are usually called Deliberations concerning the Citation of the Criminal, and this Citation is verbal or real. Verbal Citation is that which is made by Letters or a Messenger, which is used when the Question is about a lesser Crime, or if the Criminal be but slightly suspected. For if it be an heinous Crime, and fully proved, there is need of a real Citation, that the Criminal may not escape. This verbal Citation must not contain in it the Cause for which the Criminal is cited, and therefore 'tis not necessary to insert in it the Place, Time, or Offence, but he is commanded in general to come before the Inquisitors, because they want to know of him certain Matters. Clement. §. *de hæret.* But this Method of Citation is not to be frequently used, according to the *Toledo* Instruction 4. *An.* 1561. because if such a one be examined, 'tis often found, that being free, and in Possession of his Liberty, he will not easily confess himself to be a Criminal. And such Citations and Examinations do rather tend to warn the denounced Criminals to take Care of themselves, and conceal their Crime, than to produce any other good Effect. They therefore think it safer to wait, till new Proofs and sufficient Discoveries arise. In the mean while they employ a careful Spy, one friendly and faithful to the holy Office, to consider and search into such a one's Life, Manners, and Conversation. Simanc. *tit.* 44. §. 12.

A real Citation, or the actual apprehending any one, is usually decreed after this twofold Manner. In some Inquisitions, that the Prosecution may appear to be according to Jurisdiction, as comprehending in it the Accuser, Criminal and Judge, the Procurator Fiscal, who is acquainted with every Thing in the Process that lies against the denounced Criminal, exhibits an Instrument, demanding that the denounced Criminal may be taken up, and duly punished, and in that Instrument he inserts and exhibits the Depositions against him, and the Qualification of the Propositions, that it may appear that he may legally be apprehended. This Demand of the Fiscal is usually inserted in the Process of the Person to be taken up. But in other Inquisitions 'tis usual for the In-

quiſitors, after conſidering the Acts, to conſult about apprehending the Perſon, without any Inſtance of the Fiſcal, and to command what they reſolve on to be put in Execution. And this Decree for the Apprehenſion is alſo uſually inſerted in the Proceſs, with the Day, Month and Year. But if the Party accuſed be ſome illuſtrious Perſon, or in any Poſt of great Authority, the Senate of the *Spaniſh* Inquiſition muſt be conſulted before he is to be apprehended, to whom that their Deliberations may be right, they muſt ſend a Summary of the Proofs, and the Information of the Crimes. This is gathered from the *Madrid* Inſtruction, An. 1561. cap. 5. *If the Inquiſitors agree as to the Apprehenſion, let them command what they have decreed to be executed. But if it be a Matter of great Moment, by reaſon of the Quality of the Perſons, or for other Cauſes, let them firſt conſult the Senate before they put their Decree in Execution. But if they don't agree in their Judgments, let the Matter be referred to the Senate, that they may conſider what is proper to be done.* But this very great and exquiſite Caution muſt not be obſerved, when there is any Fear of the Eſcape of the Perſon accuſed, or if he is a manifeſt Heretick. For in ſuch Caſe they think it would be imprudent and dangerous to wait for the Anſwer of a Superior.

Pegna, *Com.* 107. *in* 3 *Part. Direct. Inq.*

After 'tis determined that the Criminal ſhall be ſent to Jayl, the Inquiſitor ſubſcribes an Order for his Apprehenſion, and gives it to the Executor, who is to take up the Criminal. The Form of the Order is this: *By Command of the Reverend Father* N. *an Inquiſitor of heretical Pravity, let* N. *be apprehended and committed to the Priſons of the holy Office, and not be releaſed but by the expreſs Order of the ſaid Lord Inquiſitor.* If ſeveral Criminals are to be taken up at the ſame time, a ſeparate Order for each Perſon muſt be given to the Executor, that if it ſhould be neceſſary to acquaint any Perſon, who is not one of the Miniſters or Officials of the holy Office, with the apprehending of one or another Criminal, he may know nothing of the taking up of the reſt. This Order muſt be inſerted in the Criminals Proceſs by the Notary, in the very Words in which 'tis given to the Executor. If the Inquiſitors have an armed Attendance of their own, they give this Order to their own Executor. If they have not ſuch an armed Attendance, but find it neceſſary to call in the Help of the ſecular Judge, the Inquiſitor muſt take Care, that ſuch Orders be given to a truſty Executor, and who knows how faithfully to keep the Secret he is intruſted with, becauſe, if the Perſon to be apprehended ſhould receive any private Information, he would eaſily eſcape.

In a City, where any noble Perſons, Doctors, or Religious, or others of illuſtrious Birth or Dignity are to be ſent to Jayl, the Commiſſary of the Inquiſition, or ſome other Officer, uſually goes to the Houſes of ſuch Perſons, and takes them in a Coach and carries them to Jayl. But if there is no Fear of their Eſcape, they are commanded to come to the holy Office by a ſpecial Meſſenger.

When the Criminal is apprehended, he muſt be well guarded, and if there be Need, put in Irons, and thus carried by the Executor to the Jayls of the Inquiſition, and delivered into the Hands of the Jayl-Keeper. The Keeper muſt

must take him into his Custody, and use him according to the Laws made about Prisoners. If any one is to be brought from very distant Places, they don't think it safe for him to lodge in Inns, or private Houses, because by this Means he might easily make his Escape; and therefore the Executor is usually charged, to go to the Bishops of the Place, if there be any, or to the secular Judges, that the Criminal may be placed and kept in their Jayls. And this the Inquisitor signifies by his Letters given to the Executor to the Magistrates, through whose Territories the Criminal is to be carried, and exhorts them to give the necessary and convenient Assistance to the Executor. And that no one may dare to oppose him, and that the Criminal may be kept in sure and safe Custody, they desire he may be attended with a proper Guard. But this Caution is not necessary in the Cities of *Spain*. For as soon as ever the Executor shews, that he is to apprehend any one by Command of the holy Office, no one dares oppose him. And if any one should, the Mob would immediately run together to lend an helping Hand to the holy Office, and so over-power him, that unless he would undergo the severest Treatment, he would, of his own Accord, offer himself to be taken up by the Executor. All these Things are largely settled by the *Toledo* Instruction, *An.* 1561. *Cap.* 10, 12, & 13.

CHAP. XIII.

Of the Examination of the PRISONERS.

WHEN the Criminal is put in Jayl, he is brought before the Inquisitor. The Place where he appears before the Inquisitor, is called by the *Portugueze* the Table of the holy Office. At the farther End of it there is placed a Crucifix, raised up almost as high as the Cieling. In the Middle of the Room there is a Table. At that End which is nearest the Crucifix sits the Secretary or Notary of the Inquisition. The Criminal is brought in by the Beadle, with his Head, Arms and Feet naked, and is followed by one of the Keepers. When they come to the Chamber of Audience, the Beadle enters first, makes a profound Reverence before the Inquisitor, and then withdraws. After this the Criminal enters alone, who is ordered to sit down on a Bench at the other End of the Table over against the Secretary. The Inquisitor sits on his right Hand. On the Table near the Criminal lies a Missal, or Book of the Gospels, and he is ordered to lay his Hand on one of them, and to swear that he will declare the Truth, and keep Secrecy.

Inquis. de Goa. cap. 8. *c.* 18.

After taking this Oath of declaring the Truth both of himself and others, the Inquisitor interrogates him of divers Matters. As, whether he knows why he was taken up, or hath been informed of it by any one or more Persons? Where, when, and how he was apprehended? If he says that he knows nothing of it, he is asked, whether he can't guess at the Reason? Whether he

Pegna, *prax. Inq. l.* 2. *c.* 14.

knows

knows in what Prisons he is detained? and upon what Account Men are imprisoned there? If he says he can't guess at the Cause of his Imprisonment, but knows that he is in the Prisons of the holy Office, where Hereticks and Persons suspected of Heresy are confined, he is told, that since he knows Persons are confined there for their Profanation of Religion, he ought to conclude that he also is confined for the same Reason, and must therefore declare what he believes to be the Cause of his own Apprehension and Confinement in the Prisons of the holy Office. If he says he cannot imagine what it should be, before he is asked any other Questions, he receives a gentle Admonition, and is put in mind of the Lenity of the holy Office towards those who confess without forcing, and of the Rigour of Justice used towards those who are obstinate. They also compare other Tribunals with the holy Office, and remind him, that in others the Confession of the Crime draws after it immediate Execution and Punishment; but that in the Court of the Inquisition, those who confess, and are penitent, are treated with greater Gentleness. After this he is admonished in Writing, and told, that the Ministers of the holy Office never take up any one, or are used to apprehend any one without a just Cause, and that therefore they earnestly beseech him, and command and enjoin him exactly to recollect and diligently to consider his Actions, to examine his Conscience, and purge it from all those Offences and Errors it labours under, and for which he is informed against.

After this he is asked, what Race he comes of? Who were his Parents and Ancestors? that hereby he may declare all his Family. Whether any one of them was at any time taken up by the holy Office, and enjoined Penance? This they are especially asked who descend from *Jews*, *Mahometans*, and Sectaries. Where he was brought up? In what Places he hath dwelt? Whether he ever changed his Country? Why he did so, and went into another Place? With whom he conversed in the aforesaid Places, who were his Friends, and with whom he was intimate? Whether he ever conversed with any of his Acquaintance about Matters of Religion, or heard them speak about Religion? In what Place, and when, and how often, and of what Things or Matters they conversed? They particularly ask these Questions of Persons whom they imagine to be crafty and cunning, and not easily brought to declare the Truth, that from their Kindred, Country, Education, Employment, Time past, Acquaintance, Friendship, Behaviour and Words, the Inquisitor may draw strong Arguments of Suspicion. These Questions are especially asked, when such Criminals are examined, who have dwelt in the Countries of Schismaticks, Hereticks, and other infidel and erroneous Persons, because, when they have dwelt a long while amongst such Persons, they are believed the more easily to have followed their Practices.

He is moreover asked, of what Profession he is, and what Employment of Life he follows? Whether he be rich or poor? What Returns he hath, and what the Expences of his Living? Then he is commanded to give an Account of his Life, and to declare what he hath done from his Childhood, even to this Time. And that he may declare all this, he is asked, in what

Places

Places or Cities he ſtudied, and what Studies he followed? Who were his Maſters? whoſe Names he muſt tell. What Arts he learnt? What Books he hath had and read? and whether he hath now any Books treating of Religion, and what? Whether ever he hath been examined and cited, or ſued, or proceſſed before any other Tribunal, or the Tribunal of the holy Inquiſition, and for what Cauſes; and whether he was abſolved or condemned, by what Judge, and in what Year? Whether ever he was excommunicated, and for what Cauſe? Whether he was afterwards abſolved or condemned, and for what Reaſon? Whether he hath every Year ſacramentally confeſſed his Sins, how often, and in what Church? Then he is commanded to give the Names of his Confeſſors, and of thoſe from whom he hath received the Euchariſt, and eſpecially for the ten Years laſt paſt, and more. What Orations or holy Prayers he recites? Whether he hath any Enemies? whoſe Names he muſt tell, and the Reaſons of their Enmity.

If the Criminal is perſuaded by theſe, or by more or leſs ſuch Interrogatories, openly to confeſs the Truth, his Cauſe is finiſhed, becauſe 'tis immediately known what will be the Iſſue of it.

But if after all theſe Interrogatories the Priſoner perſiſts in the Negative, and ſays he doth not know why he is cited or ſent to Priſon, the Inquiſitor replies, that ſince it appears from his own Words, that he will not diſcover the Truth, and that there is no Proof of his having ſuch Enmities with any Perſons, or that there are no ſuch Cauſes of Hatred as he alledges, by which others could, or ought to be induced ſlanderouſly, and falſely to inform againſt him, that therefore there ariſes the ſtronger Suſpicion, that the Depoſitions againſt him in the holy Office are true. And therefore he is beſeeched and adjured by the Bowels of Mercy of Chriſt Jeſus, to conſider better and better, and ingenuouſly to confeſs the Truth, and to declare whether he hath erred in Words or Deeds in the aforeſaid Matter relating to the Faith, and the holy Office, or rendred himſelf ſuſpected to others. All theſe Things are provided for by the *Toledo* Inſtructions, *An.* 1561. *cap.* 13, 14, 15, 16.

All theſe Interrogatories propoſed to the Criminals, and their Anſwers and Sayings, as propoſed and ſpoken, are faithfully and at large to be written down by the Notary; and if the Criminal can write, he ſubſcribes it; if he can't, he puts the Sign of the Croſs.

If by ſuch general Interrogatories the Inquiſitor can't draw from the Priſoner a Confeſſion of the Crime of which he is accuſed, he comes to particular Interrogatories, which relate to the Matter it ſelf, or the Crimes or Hereſies for which the Criminal was denounced. For Inſtance, if he was accuſed for denying Purgatory, then one, two, or three Days after his firſt Examination, he is again interrogated by the Inquiſitor, whether he hath any Thing, and what, to ſay beſides what he ſaid in his other Examination? Whether he hath thought better of the Matter, and can recollect the Cauſe of his Impriſonment, and former Examination, or hath at leaſt any Suſpicion who could accuſe him to the holy Office, and of what Matters? Whether he hath heard any one diſcourſing of Paradiſe, Purgatory, and Hell? What he heard *Cap.* 15.

con-

concerning that Matter? Who they were that he heard ſpeaking or diſputing of thoſe Things? Whether he ever diſcourſed of them? What he hath believed, and doth now believe about Purgatory? If he anſwers, that his Faith concerning it hath been right, and denies any ill Belief, but that he believes as holy Mother Church believes and teaches, he is order'd to ſay what the holy *Roman* Mother Church doth think and believe concerning this Article.

When he hath given in his Anſwer he is admoniſhed to conſider well and tell the Truth, and to beware of lying, becauſe the contrary is proved by Witneſſes againſt him, *viz.* that ſpeaking of Purgatory, he ſaid ſuch and ſuch Things; and then they recite the Words which the Denouncer and Witneſs have depoſed were ſpoken by him. And thus he is ſucceſſively in the ſame or another Examination interrogated in the ſame manner concerning the ſeveral Articles for which he is denounced: As, whether he ſaid, that ſimple Fornication is no Sin, that 'tis lawful to invocate Devils, and offer Sacrifices to them, and the like. All theſe Things the Notary receives, as in the firſt Examination, and the Priſoner ſubſcribes them.

If the Priſoner's Anſwers don't agree with his former Anſwers, he is examined again and again, and, as ſhall hereafter be ſhewn, they proceed to farther Remedies. And whatever the Popiſh Doctors may write, [they who have been in the Priſon of the Inquiſition with one Mouth, complain] that they are left in Uncertainty for a long while, what are the Crimes of which they are accuſed; and that the Inquiſitors would willingly draw from their own Mouths a Confeſſion of Crimes to which they are not conſcious. And this is cunningly invented for this Reaſon, that if any Perſon ſhould have happened to have ſpoken any thing not agreeable to the *Roman* Faith, and of which poſſibly he is not accuſed, he may diſcover thoſe Things alſo, becauſe he is uncertain of what Crime he is accuſed, on Account of that horrid Silence which is there obſerved; or that he may accuſe himſelf falſely of certain Things to free himſelf from that dreadful Jayl. So that they all affirm their Accuſations are not diſcovered to them till after a long Confinement, that ſo being broken and tired out with a continued and horrible Impriſonment, they may confeſs of themſelves Things that never came into their Minds.

If the Priſoner knows the Reaſon of his being apprehended, and openly confeſſes every Thing of which he hath been accuſed to the Inquiſitor, he is commended, and encouraged to hope for a ſpeedy Deliverance. If he confeſſes ſome Things, but can't gueſs at others, he is commended for taking up the Purpoſe of accuſing himſelf, and exhorted by the Bowels of Mercy of Jeſus Chriſt, to proceed, and ingenuouſly to confeſs every Thing elſe of which he is accuſed, that ſo he may experience that Kindneſs and Mercy, which this Tribunal uſes towards thoſe, who manifeſt a real Repentance of their Crimes by a ſincere and voluntary Confeſſion. If the Caſe doth not relate to formal Hereſy, but to ſome certain kind of Fortune-telling, or heretical Word, and the Priſoner confeſſes the Act or Word, but denies the heretical Intention, the Inquiſitors uſe all their Endeavours to draw from him alſo a Confeſſion. And firſt they enquire, whether that Fact or Word was committed once, or oftener?

Annot. Ib.

oftener? If oftener, they don't easily believe the Criminal, affirming his good Intention and Belief; because the oftener an heretical Proposition was uttered, there arises a greater Suspicion, that both his Intention and Faith were bad.

Carena also advises the Inquisitors to use great Caution in the Examination of Priests guilty of Solicitation, that they may not make the Confessors by their Interrogatories reveal those Things which fall under the Seal of Secresy. He tells us of a Case that happened in a certain Inquisition, that when the Process was sent to the sacred Congregation, and their Emi iencies the Fathers had considered it, they commanded every Thing to be erased out of it, which in the least savoured of the Breach of the Seal.

During the first ten Days of the Imprisonment, these Admonitions are usually repeated three times by the Inquisitor. But 'tis in the Inquisitor's Pleasure to admonish and examine them oftener, especially when they think the Prisoners refuse to discover the Truth out of Wickedness, or don't remember those Things of which they are denounced. In the supream Inquisition at *Rome* Criminals are brought into Court to Audience, examined, and admonished, not only thrice, but five times, and sometimes seven, and sometimes thrice within ten Days. Others, especially young Persons accused of heinous Crimes, are examined and admonished thrice only. From whence they draw these Rules. 1. When the Person accused is taken up, the Inquisitor must examine and interrogate him frequently concerning those Things which he denies, but which are proved, or of which there are vehement Suspicions that he is guilty, till he will say nothing more, either by confessing or denying, and his Cause is therefore concluded. 2. It is then proper to admonish and interrogate the Criminal several times, when he either denies the Crimes objected to him, or partly denies, and partly confesses them, or if there arise new Evidence and Proofs. 3. 'Tis left to the Pleasure of the Inquisitors, how often the Criminal shall be brought up, admonished, and examined, and in a doubtful Case 'tis safest often to admonish and examine him. 4. Altho' 'tis not determined by any particular Law, and three Admonitions ought to be made within the first ten Days after Imprisonment, yet 'tis safe, that soon after the Criminals are sent to Jayl, they should be brought to Audience, admonished and interrogated, and that other Examinations should be made a few Days after, whilst their Memories are fresh. But their Practice is directly contrary to this Advice, for the Prisoners are detained in the Jayls of the Inquisition several Years, and 'tis very often an whole Year, before they are again examined, after the three first Admonitions.

Cap. 16.

CHAP. XIV.

What Arts the INQUISITORS *use to draw a Confession from the Prisoners.*

Pegna, *prax. l. 2. c. 19.*

THESE Examinations and Admonitions are repeated by the Inquisitors, as often as they think fit, for they are not bound to any certain Number. But in these Examinations the Inquisitors use the greatest Artifice, to draw from the Prisoners Confessions of those Crimes of which they are accused. And altho' they say that the Inquisition makes use rather of Prudence than Art, yet they suggest several Orders and Artifices which must be used, and which they generally use in making Inquisition.

First, they observe this exactly, that as often as the Criminals are judicially interrogated, they must so often touch the holy Scriptures, swearing that they will declare the Truth, so that an Oath always precedes the Deposition. The same also is observed as to the Witnesses. Yea, if the Examination should be broke off, and what follows should be only a Continuation of the former, they must first take an Oath before they are suffered to proceed. Besides, the Inquisitors always admonish and exhort the Criminals, to confess simply, fully and truly, whatsoever they have done against the Catholick Faith, and especially to take Care that they don't bear false Witness either against themselves, or any others. They must not give them Occasion to behave indecently or rudely, or to utter Reproaches; neither must they promise them Impunity or entire Deliverance, whilst they are endeavouring to draw a Confession from their Mouths, least they should prove Liars, by promising what possibly they may not be able to perform, or least the Criminals under this Hope should confess Things which perhaps they never committed.

Cap. 20.

They must not be negligent and slothful in omitting such Interrogatories as belong to the Cause it self, and the Articles brought into Judgment; nor must they be too troublesome and imprudent, by putting impertinent Interrogatories, which don't relate to the Cause. But if the Criminal gives Occasion to ask other Questions by his Answer to such Interrogatories as are founded upon legal Proofs, if they are not altogether trifling and foreign to the Cause, he may be interrogated upon them, because he himself gave Occasion for them in his Answer. And thus sometimes, as they say, it happens in this Tribunal, that from the Answers of the Criminals they begin to make great Discoveries.

But particular Care must be taken, that the Witnesses who depose against the Criminal, may not be discovered by the Interrogatories, in Favour of the Faith, least the Criminals should conspire against them, whereby few would be found to denounce Hereticks, or suspected Persons, or to give Testimony against them. If the Criminal begins to confess, and freely to declare the Truth, the Inquisitor must not hinder, disturb, or interrupt him, nor break off his Confession, tho' other Affairs call for him, or the Time be elapsed; because

cause, they say, 'tis often found, that those whose Confessions have been once interrupted, will not afterwards confess any more, or will retract what they have begun to confess.

If there arises any Thing doubtful, worthy of Consideration, from the Criminals Answers, which 'tis proper to know how the Denouncer and Witnesses understood it, they are to be called again and re-examined. For Instance, whether the Prisoner spoke what he said in jest, or earnest? Or as repeating the Words of other Persons, or asserting it as his own Mind and Opinion? But here the Inquisitor must be cautious, that he doth not by re-examining the Deposition or Witnesses discover any Thing, from whence the Deposer or Witnesses may gather what the Criminal hath confessed; but must so interrogate him, as tho' 'twas only for his own Information. *Cap.* 18.

These are the principal Cautions which they are commanded to observe in the Examination of Criminals, all which the Inquisitors do very carefully and exactly keep to, as far as they find any of them of any Service to draw Confessions from the Prisoners own Mouths, but which they easily omit, when they think proper, and it will serve their Turn, especially when they would be of any Use and Assistance to the Criminals. That they may draw from them a Confession, they are at first kind, and pretend the sincerest Affection, and 'tis recommended to the Inquisitors to treat the Criminals tenderly, whilst they are heard, interrogated and examined, and to remember that they themselves are Men, who might have fallen into the same or like Crimes, unless they had been guarded by the Grace of God, and not to suffer the Criminals, altho' common and mean Persons, to stand whilst they are hearing, but to command them to sit down. If in their Confession, or in the Beginning or Progress of their Examination they are so moved with Grief, or affected with Repentance, as to shed Tears, or to implore the Mercy of the Judges, and ask Pardon for their Offence upon their bended Knees, or holding up their Hands, or beating their Breasts, all these Circumstances must be inserted by the Notary in the Acts of the Process.

But if the Prisoners don't confess those Things of which they are accused, as it may often happen, either because the Accusations are false, or because they don't remember Things, especially if at the Distance of several Years, and what was said was not in the least premeditated, but inadvertently and in common Discourse, they make use of a quite different Method of Inquisition, and try every Art to catch and insnare these miserable Criminals, already tired out by their vile Imprisonment, Arts not always wholly agreeable to the Admonitions just now mentioned. This is well described by *Eymerick*, and therefore I shall give it here, that the Manner of proceeding against the Prisoners in the Jayl of the Inquisition, may be more distinctly and fully understood. *Direct. Inq. part.* 3.

According therefore to the Directory of *Eymerick*, the Inquisitors don't interrogate all Persons of the same Things, nor in the same Order, but begin and carry on their Inquisition, either from what the Accusers and Denouncers say, or from the Answers of the Witnesses, or from what *n.* 86.

they learn by Experience, or from what their own Judgment dictates to them; so that they often vary the Manner of their Examination, least if the Criminals should foresee the ordinary Manner and general Rule, they should take the proper Precaution and Care to evade it.

n. 87. If any openly confess their Errors, and persist in them, and desire to defend them, they are convicted by learned Men of the Crime of Heresy; for 'tis shewn that their Opinions are condemned by the Church of *Rome*, and are therefore heretical, and because they obstinately defend their Opinions before the Inquisitors, they are judged to be Hereticks.

But if they will not declare their Errors, but rather cover them by ambiguous Answers, the Inquisitor uses various Arts to discover them. For as far as it can be done he openly interrogates them, and proposes a single Thing in each Interrogatory, and not several together, and compels the Criminal to answer directly to each of them. If he gives obscure and doubtful Answers, he is commanded to explain them, before he proceeds farther. If he will dispute, the Inquisitor enters into no Dispute with him, but only interrogates and examines him. Sometimes he speaks kindly to him, pretends that he pities his Misfortune, advises him to speak the Truth, which he gives him to understand he is acquainted with, and intimates to him some Hope of Favour and Freedom if he confesses, because the holy Office of the Inquisition uses to shew Mercy to such who voluntarily confess their Crimes, how grievous and heinous soever they may be, and in a friendly Manner speaks to him thus.

Com. 22.

100.

Com. 23. "Don't be afraid openly to confess, if you did happen to believe these sort of "Persons, who taught such and such Things, to be good Men. You believed them, and willingly heard them, and gave them somewhat of your "Substance, or received them sometimes into your House, or made Confession to them, because you were a simple Man, and loved them, thinking "them to be good Men, and knowing no Evil of them. The same Thing "might have happened to Persons much wiser than you, and so they might "have been deceived. I have Pity on you, and see your own Simplicity hath "deceived you, and tho' you are in some measure faulty, yet they are more "so who have instructed you. Tell me therefore the Truth, for you see I "know the whole Matter, that I may immediately free you, and shew you "Favour." After this he interrogates him, not so much concerning the Fact, as the Circumstances of it, that the Person may believe he knows the Fact already.

101. If the Inquisitor knows that he who denies the Fact is convicted by Witnesses, he reads over to him what they have deposed, suppressing their Names, so as that he may know he is convicted by them, but may not understand who

102. they are. If he knows he is not convicted by Witnesses, and the Depositions against him have from the Proofs an Appearance of Truth, the Inquisitor takes up the Process, looks it over, and says, 'tis evident you don't speak the Truth, but that 'tis as I say. Tell me therefore the plain Truth. This the Inquisitor doth, that the Criminal may believe that he is already convicted, and that it appears so in the Process. Or he hath a Paper in his Hand, and pretends

tends to read out of it Things that are not contained in it, and then with an Air of Admiration cries out, How can you deny it? Is it not fully evident to me? But here they take Care not to come to ſuch Particulars, from which the Criminal might eaſily gather, that the Cauſe is not ſo well known to the Inquiſitor as he pretends. He only mentions what he is certain of, and as to other Things ſpeaks only in the general. Sometimes the Inquiſitor pretends 103.
he muſt go to ſome other Place, and ſhall not return for a long while, and ſays that he pities the Priſoner, would expedite his Affair, and ſo perſuades him to confeſs; otherwiſe he muſt remain in the Jayl in Irons till his Return, and he doth not know when that will be, that by this Means the Priſoner may, thro' Dread of that direful and weariſom Impriſonment, be perſuaded to confeſs. And indeed in the Book of the Sentences of the *Tholouſe* Inquiſition, there are Inſtances of ſeveral, who have been continued in Jayl ſeveral Years, before Sentence pronounced againſt them. And even to this Day the Priſoners are kept many Years in the Priſon of the Inquiſition, which in *Spain*, and eſpecially in *Portugal* is very diſmal, as hath been related, Book 2. Chap. 18. that they may at length confeſs. Sometimes the Inquiſitor multiplies his In- 104.
terrogatories, and teaſes his Priſoner, that he may confeſs this or the other Thing, or may be caught contradicting himſelf. When this happens, the Priſoner is ſhewn the Contradictions in his Anſwers, and admoniſhed to declare the Truth, or that otherwiſe he will be put to the Queſtion and Tortures. And if he will not confeſs, he is, as will be afterwards ſhewn, by the Advice of the Learned, actually made to undergo them, that by Torments they may draw forth the Truth.

If neither by this Means he can draw out a Confeſſion from the Priſo- 106.
ner, he treats him more kindly in his Food and Drink, and procures certain Perſons, no ways ſuſpected concerning the Faith, to go to him, and frequently to converſe with him of ſeveral Things, not at all relating to his Cauſe, and at length to perſuade him to have Confidence in them, and to adviſe him to confeſs the Truth, promiſing that the Inquiſitor ſhall be favourable to him, and that they will be Mediators in his Behalf. At length the Inquiſi- Pegna,
tor comes along with them, and promiſes to ſhew him Favour if he will con- *Com.* 23.
feſs the Truth, for all is gracious that is done for the Converſion of Hereticks, and even their Penances are Graces, and Remedies. If the Perſon accuſed by this Means prays for Favour, and confeſſes his Error, the Inquiſitor anſwers, you ſhall have much greater Favour than you asked, but promiſes it only in general Terms, for he thinks he fulfils his Promiſe, in ſhewing the leaſt Kindneſs to him afterwards. And when they promiſe to ſhew Favour, 'tis underſtood only of thoſe Puniſhments, which are left to their own Power, *viz.* ſeveral penitential Puniſhments, becauſe they can't remit thoſe which are appointed by the Law. They farther teach, that notwithſtanding the Promiſe of ſuch Grace, they may inflict penitential and arbitrary Puniſhments; becauſe, if after a long time, continual Admonitions, and ſometimes after the Torture, Criminals confeſs their Offence upon the Promiſe of ſuch Grace, the Inquiſitors may legally and juſtly inflict more grievous penitential Puniſh-

ments,

ments, if they omit the lesser; for if one or another be remitted, they think they abundantly satisfy their Promise.

And by these flattering Assurances they sometimes overcome the Minds of more unwary Persons, and when they have obtained the designed End, immediately forget them all. Of this *Gonsalvius* gives us a remarkable Instance.

Pag. 82, *&c.* " In the first Fire that was blown up at *Seville*, *An.* 1558, or 1559, " amongst many others who were taken up, there was a certain pious Ma" tron, with her two Virgin Daughters, and her Niece by her Sister who " was married. As they endured those Tortures of all Kinds, with a truly " manlike Constancy, by which they endeavoured to make them perfidi" ously betray their Brethren in Christ, and especially to accuse one another, " the Inquisitor at length commanded one of the Daughters to be sent for to " Audience. There he discoursed with her alone for a considerable time, in " order to comfort her, as indeed she needed it. When the Discourse was end" ed, the Girl was remanded to her Prison. Some Days after he acted the " same Part again, causing her to be brought before him several Days to" wards the Evening, detaining her for a considerable while, sometimes tel" ling her how much he was grieved for her Afflictions, and then intermixing " familiarly enough other pleasant and agreeable Things. All this, as " the Event shewed, had only this Tendency, that after he had persuaded " the poor simple Girl, that he was really, and with a fatherly Affection " concerned for her Calamity, and would consult as a Father what might be " for her Benefit and Salvation, and that of her Mother and Sisters, she might " wholly throw her self into his Protection. After some Days spent in such " familiar Discourses, during which he pretended to mourn with her over her " Calamity, and to shew himself affected with her Miseries, and to give her " all the Proofs of his good Will, in order, as far as he could, to remove " them, when he knew he had deceived the Girl, he begins to persuade her " to discover what she knew of her self, her Mother, Sisters, and Aunts, who " were not yet apprehended, promising upon Oath, that if she would faith" fully discover to him all that she knew of that Affair, he would find out a " Method to relieve her from all her Misfortunes, and to send them all back " again to their Houses. The Girl, who had no very great Penetration, " being thus allured by the Promises and Persuasions of the Father of the " Faith, begins to tell him some Things relating to the holy Doctrine she had " been taught, and about which they used to confer with one another. When " the Inquisitor had now got hold of the Thread, he dextrously endeavoured " to find his Way throughout the whole Labyrith, oftentimes calling the " Girl to Audience, that what she had deposed might be taken down in a le" gal Manner, always persuading her, this would be the only just Means to " put an End to all her Evils. In the last Audience he renews to her all his Pro" mises, by which he had before assured her of her Liberty, and the like. " But when the poor Girl expected the Performance of them, the said Inqui" sitor, with his Followers, finding the Success of his Craftiness, by which " he had in part drawn out of the Girl, what before they could not extort

" from

" from her by Torments, determined to put her to the Torture again, to force " out of her what they thought ſhe had yet concealed. Accordingly ſhe " was made to ſuffer the moſt cruel Part of it, even the Rack, and the " Torture by Water, till at laſt they had ſqueezed out of her as with a Preſs, " both the Hereſies and Accuſations of Perſons they had been hunting af- " ter. For, thro' the Extremity of her Torture, ſhe accuſed her Mother " and Siſters, and ſeveral others, who were afterwards taken up and tortured, " and burnt alive in the ſame Fire with the Girl."

See *Cap.* 29. *Book* 4.

But if they don't ſucceed neither with this Way, the Inquiſitor permits ſome Perſon or other, who is not unacceptableto the Priſoner, to go to him, and converſe with him, and if it be needful to feign himſelf ſtill one of his own Sect, but that he abjured thro' Fear, and diſcovered the Truth to the Inquiſitor. When he finds that the Priſoner confides in him, he comes to him again late in the Evening, keeps on a Diſcourſe with him, at length pretending 'tis too late to go away, and that therefore he will ſtay with him all Night in the Priſon, that they may converſe together, and the Priſoner may be perſuaded by the other's Diſcourſe, to confeſs to one another what they have committed. In the mean while there are Perſons ſtanding at a proper Place without the Jayl, to hear and to take Notice of their Words, who, when there is need, are attended by a Notary. 107.

This *Eymerick* taught was to be done in his Time. But now the Perſon, who thus treacherouſly draws out any Thing according to his Deſire from his Fellow Priſoners, prays the Jayl-keeper, when, according to Cuſtom, he is viſiting his Priſoners, to deſire that he may have an Audience. For this is the Method the Priſoners take. And when he goes out of his Jayl to give an Account of his Office, he diſcovers not only what he heard from any of the Priſoners, but alſo how they received the Doctrine propoſed to them, whether with a chearful or angry Countenance, and the like, if they refuſed to give them an Anſwer, and what they themſelves think of them. And the Accuſations of ſuch a Wretch they look on as the beſt and moſt unexceptionable Evidence, altho' the Perſon be otherwiſe one of no manner of Worth, Credit or Regard.

Gonſalv. *p.* 95.

Theſe ſort of Perſons they call Flies, and, as *Gonſalvius* tells us, they may be known and found out by this one Thing, that for the moſt part they thruſt themſelves into ſuch ſort of Converſations, without any one's asking them, and begin very impertinently ſuch Diſcourſes concerning Doctrine. And therefore he adviſes, that if the Priſoners act prudently, they will let them talk themſelves weary, without giving them any Anſwer.

They who have been lately in the Priſon of the Inquiſition in *Spain* and *Portugal*, tell us of another Method they make uſe of to draw a Confeſſion from the Priſoners, *viz.* The Inquiſitor ſuborns a certain Perſon, to go and ſpeak to the Priſoner, and to tell him he comes of himſelf, and of his own Accord, and to exhort him to tell the Inquiſitor the Truth, becauſe he is a merciful Man, and ſuch fine Tales. This is now particularly the Cuſtom in *Spain* and *Portugal*, as to thoſe they call the new Chriſtians. If the Priſoner affirms

himself to be a Catholick, and denies that he is a *Jew*, and is not convicted by a sufficient Number of Witnesses, they suborn one to persuade him to confess. If he protests himself innocent, the other replies, that he also hath been in Jayl, and that his protesting his Innocence signified nothing. What, had you rather dwell for ever in Jayl, and render your Life miserable, by being ever parted from your Wife and Children, than redeem your Freedom, by confessing the Crime? By this and other like Things the Prisoners are oftentimes persuaded to confess not only real but fictitious Crimes. And when their Constancy is thus almost overcome, the Inquisitor commands them to be brought before him, that they may make him a Confession of their Faults.

Pag. 95. Here *Gonsalvius* justly wonders, how Men can be of so devilish a Temper, as voluntarily to hire themselves out to such Offices, and at so great an Expence to themselves, who, in order to obtain their Desire, don't refuse to be Prisoners with others, even for two or three Months together, in a vile narrow Jayl, but bear willingly what the Prisoners themselves bear with the greatest Uneasiness, all the Inconveniencies of it, Hunger, Nastiness and Stench; and what is more wonderful, go out of one Jayl into another, and then into a third, twice, thrice, four times, always experiencing the same Inconveniencies, and passing their whole Lives in such a Circle of Delights.

After these Examinations, if the Prisoner confesses nothing, he is carried back to Jayl, and there kept sometimes for a whole Year, before he is again brought up to the Inquisitor. In the mean while, if he desires an Audience, to confess certain Matters, he may gently rap at the Door of his Jayl. The Keeper being acquainted herewith by his Officers, immediately comes to him, and is desired by him to ask the Favour of the Inquisitor of being brought before him.

If the Criminal will not answer to the Interrogatories judicially put to him, or answers uncertainly and doubtfully, as, I don't know, I don't remember, I have forgot; or when he answers as to the main Fact, but refuses to answer concerning the principal Circumstances of the Crime, if the Circumstances are such, which 'tis probable he may remember, he may be put to the Torture to make him precisely answer affirmatively or negatively: Because Criminals are not apprehended for the Crime of Heresy without legal Proofs, *i. e.* more than half full Proof. 'Tis the same Case if they pretend Madness. Sometimes also they are humbled by Imprisonment and Fasting.

Pegna, *prax. l.* 2. *c.* 21. *n.* 5. And to shew that they deal more mildly in their Tribunal than in others, they add, that in other Tribunals, when the Criminal is accused of any certain Fact, he hath not Time allowed him to deliberate whether he will confess, or be tried, but is immediately compelled to answer. But that in this Tribunal, where Criminals are dealt with more mildly and gently, they not only give them Time to answer when they ask it, but oftentimes admonish, and even invite them, to think better of the Matter, and carefully to recall to their Remembrance their Actions and Words, that they may answer truly, and

and that for this Reason they are often examined and interrogated. But in Truth this Pretence of Mercy is used only for this End, that the Criminal, who if convicted by two agreeing Witnesses, and still persisting in the Negative, is sure to be condemned as a Negative without Mercy, and delivered over to the secular Court, may, through Fear of this horrible Punishment, confess the Crime he is accused of, and so be reconciled as a Penitent, by certain Penances laid on him by way of Punishment, or delivered over as impenitent to the secular Court, and burnt alive. But if he revokes his Confession when made, and be not legally and fully convicted by Witnesses, he is most cruelly tortured, because by his own Confession he hath given Proof against himself sufficient for the Torture. If he is overcome by the Torture, and renews his Confession, he is punished as an Heretick; if he overcomes the Torture, he is enjoined salutary Penances at the Pleasure of the Inquisitor, as one suspected of Heresy.

As often as the Criminals or Witnesses are examined, either in their first or after Audiences, when the Examination is ended, before they go from Audience, the Inquisitors order the Notary clearly and distinctly, to read over to them their Depositions, that so the Criminals or Witnesses may add, diminish, correct or change what they please, that, if there be any Mistake, it may be rectified, which otherwise scarce could be. For if after the Criminal or Witness goes from Audience, or if at any Distance of Time after, they would amend or alter what they have said, it would not be allowed them. And therefore the Notary, at the End of the Examination, writes down, that the Deposition was read over to the Criminals or Witnesses, and adds whatever either of them added, diminished, altered or amended. Pegna, c. 22.

If, besides the Deposition of the Informer, and the Witnesses named by him, they have any other Matters, the Inquisitors inquire farther, that the Evidence may be more fully confirmed. This they particularly observe, when the Witnesses or Criminal name any other Persons in their Examination on one Side or the other. If such Persons are present, the Inquisitor orders them to be called and interrogated. If they are absent, and it be not safe or easy to come at them, he writes to the Inquisitor or Bishop, in whose Diocese they are, that he should cite and interrogate them privately, and find out the Truth, and to transmit the Matter to him faithfully and secretly as he discovers it. Thus 'tis determined by the Council of *Narbonne*, Cap. 22. *Yet so, that the other Inquisitors may nevertheless inquire out what they are able to discover, and write to those Inquisitors in what Things such Person is culpable.* *Cap.* 23.

CHAP. XV.

How the Prisoners are allowed an ADVOCATE, PROCURATOR *and* GUARDIAN.

WHEN the Process hath gone thus far, and all the Informations and Proofs relating to the Cause, are taken in a summary Manner, and the Criminal fully examined, if he confesses his Crime, there is no room for a Defence, nor do they proceed to the re-examining of the Witnesses. But if he persists in the Negative, and demands the Depositions to be given him, whether he is presumed to be innocent or obstinate, he is admitted to his Defence, and all Matters are prepared to form the Process. And therefore because the Criminal must be convicted by Witnesses, the Witnesses must be re-examined. And that the Criminal may not seem to be denied his Defence, he hath an Advocate and Procurator allowed him. He is not however at Liberty to chuse the one or other as he pleases, nor is it lawful for any Advocate to defend an Heretick under Pain of Infamy. Cap. *Si adversus nos.* de hæret. The Inquisitors appoint him his Advocate, and he is bound to them by Oath. The Criminal may also sometimes, if he demands it, have a second Advocate. The Qualifications necessary in such an Advocate are these: That he be a good Man, not suspected as to his Honesty, skilful in the Canon and Civil Law, zealous for the Faith, and not in the least tinctured with Heresy, and he is allowed to the Criminal, according to the present Custom in *Spain*, after he hath received three Admonitions, freely to confess the Truth. The Manner to be observed in these Things, and how the Advocate must act in defending the Criminal, is provided by one of the *Madrid* Instructions, *A.* 1561. *c.* 23. *The Inquisitor or Inquisitors shall admonish the Criminal how much it concerns him to confess the Truth, after which they shall nominate him an Advocate or Advocates, appointed by the holy Office for this Purpose, in order to his Defence; and in the Presence of every one of the Inquisitors, the Criminal shall confer with his Advocate, and, as he counsels, shall answer to his Accusation by Word or Writing. But before the Advocate undertakes his Defence, he shall sware that he will truly and faithfully defend him, and observe Secresy in every Thing he shall hear or see, even altho' he took his Oath when he was first appointed by the holy Office to this Employment. The Business of the Advocate is to admonish the Criminal to confess the Truth, and to ask Pardon for his Fault, if he be guilty of any. The Answer shall be notified or intimated to the Fiscal.*

Direct. p. 3. *com.* 28.

The fourth Instruction of *Toledo*, *cap.* 4. as *Simancas* relates it, gives a somewhat fuller Account of this Matter. The Advocate must not defend any Criminals, unless he be allowed it by the Inquisitor. He must swear, that he will faithfully defend the Cause, and use only just Exceptions, and that as soon as ever he knows the Cause to be unjust, he will inform first the Criminal of it, and then the Inquisitors, and immediately throw it up. After this he must

De Cathol. Instit. tit. 5. *§.* 1, 3.

must swear to observe Secresy, and not to make any Discoveries to any one. The Form of the Oath administred to the Advocate, is this. *I* N. *Doctor of both Laws, being here before you, Reverend Fathers, Inquisitors of the holy Inquisition against heretical Pravity, touching these most holy Gospels of God now before me, do swear, and promise, that I will sincerely and faithfully, without any Cavilling or Fraud, defend* N. *whose Defence was committed to me, now imprisoned as a Criminal, and under Inquisition, in the Jayls of this holy Office, for such Causes as appear in the Acts of the said holy Office, and that I will maintain his Cause, and that I will not instruct this my said Principal to conceal the Truth in his Trial, and that as far as I shall know this my said Principal to be guilty, convicted of the Crime, or criminal, in the Matter or Matters for which he is inquisited, I will throw up his Defence: And moreover, as soon as I shall have Knowledge in the Management of this Cause of any Accomplice, or Person culpable in this Cause, I promise and engage to discover it immediately to the said Office, under Penalty of Perjury and Excommunication, from which I cannot be absolved, but by this holy Office. So help me God, and these holy Gospels of God.* This Oath is written down by the Notary, and inserted in the Acts of the Process. The Advocates receive §. 6, 7, 8. their Stipend from the Treasury, when they defend the Causes of the Poor, which is usually very small, but honourable. But if the Criminals are not poor, the Advocates receive their Pay out of their Effects. *Instruct.* 1. *c.* 16. Whatever the Advocates alledge, in the Presence of the Criminal, is taken, as if it had been alledged by the Criminal himself, unless the Advocate hath been mistaken, and the Prisoner contradicts it within three Days. But in the Cause of Heresy, if after three Days it shall appear that the Advocates have been mistaken, or imprudent, it shall not prejudice the Criminal, because it seems, in this Judgment, they act with Simplicity and the highest Equity, and reject the Rigour of the Law. If the Criminal says the Crimes objected to him are forged, his Advocate advises him either to challenge the false Witnesses, or to find out some just Exception and Defence, and says he is prepared to defend his Cause as far as just.

The Criminal also had formerly allowed him a Procurator. But these Pro- Pegna, curators are now seldom allowed, because the Advocates are sufficient, and *com.* 28. exercise the Office of Procurators. Yea, they say that the Inquisitors appear more truly to be the Procurators of the Criminals, since by Office they are to take Care of the Criminals Defences. Concerning these we thus read in the *Madrid* Instruction, *An.* 1561. c. 35. *Altho' the Instruction provides that Procurators shall be allowed the Criminals, yet they ought not to be granted them, because Experience teaches that many Inconveniencies arise from thence; and because of the little Advantage which the Criminals obtain by it, they shall not be any longer allowed them: Altho' sometimes when the Case is urgent, 'tis allowed the Advocate to defend the Criminals.*

If the Criminals are under twenty-five Years of Age, they are allowed Curators (a sort of Guardians) by whose Authority they are defended, least, thro' Unskilfulness or Youth, they should conceal, or say any Thing, which if spoken or concealed, might be of Advantage to them. The same Instruction

ſtruction thus provides, cap. 25. *If the Criminal be not of the Age of 25 before he anſwers to his Accuſation, let him be allowed a Curator, by whoſe Authority the Confeſſions made ſhall be ratified, and the whole Proceſs formed. But let not ſuch Curator be of the Officials of the holy Office, but he may be either his Advocate, or any other grave, faithful and conſcientious Perſon.* He muſt alſo take an Oath before the Inquiſitor, laying his Hand upon the Goſpels, *not to defend the Priſoner falſely, not to inſtruct him to conceal the Truth in Judgment; but to protect him according to the Form of the ſacred Canons, and the Manner of the holy Office; and that as ſoon as ever he ſhall know him to be an Heretick, and obſtinate, he will deſiſt from the Proſecution of his Cauſe and his Defence. But in caſe he will reconcile himſelf to holy Mother Church, that he will aſſiſt him; and that if it ſhall happen that he knows any Perſon or Perſons in the Proſecution of ſuch Cauſe, to be an Accomplice, or culpable, he will diſcover him or them, and that he will not diſcourſe of his Proceſs, nor of any Thing contained in it, much leſs of the Merits of ſuch Cauſe, directly or indirectly, with any Perſon except his Principal, or his Procurator or Advocate, under Pain of Perjury and Excommunication,* latæ ſententiæ, *from which he cannot be abſolved but by this holy Office, nor even by this, unleſs he expreſſes the Cauſe that induced him thus to falſify his Oath.*

CHAP. XVI.

How the Priſoners are interrogated by the INQUISITOR, *whether they allow the Witneſſes to be rightly examined, and re-heard.*

Pegna, cap. 4.

THE Advocate being thus granted, and ſometimes, if the Criminal demands it, the Procurator alſo, the Inquiſitor uſually asks the Criminal whether he allows the Witneſſes examined againſt him, to be well and truly examined, and legally re-heard. If he anſwers, that he would have the Witneſſes heard over again, and examined with his Interrogatories, and thus convict them of Falſhood, the Inquiſitor orders him a Copy of the Articles formed by the Procurator of the Exchequer, to the End that he may form his Interrogatories, and allows him three Days to give them in. If he anſwers, that he will conſider, and conſult his Advocate or Procurator, the Copy of the Articles formed by the Promotor of the Exchequer is given him, to aſſiſt him the better how to reſolve. If he refers himſelf to the Diſpoſition of the Law, 'tis the ſame Thing as if he had anſwered, he would have the Witneſſes re-examined. Becauſe, according to Law, the Proof of Witneſſes received in a ſummary Manner is not regular, unleſs they be fully re-produced when the Party is cited, and re-examined upon the Interrogatories of the Criminals, that they may thus confirm their Evidence and Depoſitions. If he anſwers, that he refers himſelf to the Pleaſure of the Inquiſitor, the Inquiſitor muſt not accept it, leaſt it ſhould be afterwards objected to him that he hindered the Criminal from

making

making a legal Defence, and therefore he refers him to his Advocate or Procurator. If he answers, that he allows the Witnesses, who have deposed against him, to be well and truly examined, and legally re-heard, but saves to himself the Liberty of making Exceptions against Persons and their Depositions in drawing out his Defences, this is wrote down by the Notary in the Acts. But altho' the Criminal should thus allow the Witnesses as legally examined, the Inquisitors must however take Care, that they be formally re-examined, especially when there is any Fear of their Death, or long Absence. In such a Case the Witnesses must be admitted, before the Trial commences. *Simancas* more fully describes this Matter: "In the Cause of Heresy, in which Inquisition is made by Virtue of the Judges Office, the Witnesses are to be admitted before the Commencement of the Trial. The Promotor of the Exchequer ought however to be careful, and to insist, that the Witnesses repeat what they have said, and give in again their Evidence, before some Religious Persons, least possibly they should die before the Trial commences. And the Judges ought not to deny this, least the Proofs should fail, but when-ever there is a just and probable Cause, the Witnesses must be produced again, and their Evidence confirmed. Now 'tis a just Cause for re-hearing the Witnesses before the Trial, if they labour under any dangerous Distemper; or if they are to be long absent, or if the Criminal himself be absent, or if present not yet apprehended, nor put in Jayl; or if the Witnesses are to be delivered over to the secular Court."

§. 15, 22.

§. 23.

Tit. 44. §. 23.

CHAP. XVII.

How the PROMOTOR FISCAL *exhibits the Bill of Accusation.*

AFTER the Inquisitor hath received, as hath been said, Information against the Criminal denounced to him, the Procurator Fiscal, in some Inquisitions, presents in Court, in Presence of the Criminal, a Bill of Indictment, containing the Heads of the Offences, of which the Criminal is accused, and presents it to the Inquisitor. The Form of this Bill is not every where the same. *Eymerick* gives this in his Directory of the Inquisitors.

Pegna, c. 29.

I N. *Fiscal of the Office of the most holy Inquisition, do before you the Reverend Inquisitor, delegated Judge in Causes of the Faith against heretical Pravity, criminally accuse* N. *who being baptized a Christian, and accounted as such amongst all Persons, hath departed from the Catholick Faith, and hath impiously gone over to the deadly Heresy of the* Manichees, *and other Hereticks, particularly such a one, and such a one; preaching, writing, composing, and firmly asserting many heretical, erroneous, scandalous, and greatly suspected Opinions, in Approbation and Praise of the aforesaid Heresy, and Hereticks, whom he follows as his Masters.* *Simancas* gives us another in these Words.

I accuse

Tit. de Accusationibus.

I accuse N. *who being baptized a Christian, believes and teaches many Heresies, and especially this and that*, after mentioning which, the Promotor Fiscal concludes, with demanding that *N.* may be punished as an obstinate Heretick, and suffer the most grievous Punishments of Heresy.

Lewis a Paramo gives us a larger Form of this Bill of Indictment, in his History of the Inquisition, *Lib.* 3. *Qu.* 9. *n.* 21.

Very Illustrious and most Reverend Lords;

I *Doctor or Licentiate* N. *and Advocate Fiscal of this holy Inquisition, that I may act better, according to Law, as I ought to do, appear before your most reverend Lordships, and having performed all the Solemnities required, and necessary by Law, do criminally accuse* N. *of the Town or City of* N. *the Diocese of* N. *and Kingdom of* N. *and by specifying the Fact say, that when the aforesaid* N. *was a Christian, and washed with the Waters of Baptism, and marked with the Character of Christ, and by common Estimation reputed as such, and called so in the Opinion of all, or being found such, and in Possession, or as tho' he had been a Christian, enjoying also the Exemptions and Immunities of Christians, and using their Privileges as he ought to do, yet neglecting the Fear of Christ, our Saviour, and despising the Rigour of Justice of this Office of the holy Inquisition, hath said and done, some Thing heretical, and many other Things as an Heretick, by which 'tis presumed, and ought to be presumed, that the aforesaid* N. *hath lost that Faith, and that Belief or Virtue of Believing, which was given him in the most holy Sacraments of Baptism and Confirmation; and that he hath given undoubted Faith to those Errors, which those false and impious Persons* Martin Luther, Calvin, Mahomet, *and other Arch Hereticks have advanced, and I do especially accuse him, because he was persuaded, that any Person in those Errors might obtain eternal Glory.*

And, in the first Place, about two Years ago, as, I suppose, the aforesaid N. *when he was in a certain Place of the City or Town of* N. *did, in the Presence of the venerable and discreet Persons,* N. *say and pronounce certain heretical Words, or suspected of Heresy, or did such a Thing as savoured of Heresy, plainly manifesting that he thought so,* viz. *that Faith alone, without Works, was sufficient to Salvation, and to obtain eternal Glory; or that* Mahomet *was the Messenger of the true God, and that the Laws given by him are sufficient for any one to be saved by, and he may be saved by them. On this account one of the By-standers, perfectly hearing what he said, sharply reproved him; but he, on the contrary, produced, and suddenly alledged several Places of the holy Scripture, to defend his impious and heretical Opinion, and changing and despising the true Sense and right Understanding, interpreted the alledged Places according to his own Will, and contrary to the vulgate Edition of the Church of* Rome, *and the canonically received Opinion, tenaciously adhered to his Error. And not content with these Things, he produced many other Arguments, by which he might maintain and confirm his Heresy, which he doth firmly hold, believe and defend, from whence 'tis clearly inferred, that he is, without doubt, an Heretick.*

Besides, the aforesaid N. *endeavouring every Day to spread his Error, not content with his own Fall, hath, with the greatest Diligence and earnest Care, in this or that Place, the third Day of the fourth Month* N. *taught others according to his own Mind*

Mind his poisonous Opinions, acting herein as a Master, and thus dogmatizing, hath deceived his Hearers, and caused them to deviate from the Catholick Truth, so that in very many Discourses he hath endeavoured to persuade all into the Belief of his Errors.

To these Things I add, that by this suspected Doctrine, contrary to the Faith, and by his Deed or Word which was not right, he hath given manifest Occasion of Ruin to other Standers by, remarkable for their Probity of Manners, Religion, and good Life, who, by this Offence, have deviated from the Catholick Faith, and believed his Opinions.

Farther, the aforesaid N. *comes to be accused, because, little regarding his spiritual Profit, and his Conscience, he doth not know how to sign himself with the Sign of the Cross, and what is worse, doth not know the Apostles Creed, the Lord's Prayer, the Salutation of the Angel, and other Things of the like Nature.*

Add to this something not less grievous, and affording great Suspicion, viz. *that there was found in his House a Book, or certain Volume, or Paper, containing the Opinions and wicked Errors of* Luther, Bucer, *or other Hereticks, or the Law published by* Mahomet, *all which Things secretly kept by him, and prohibited by publick Edicts, and the Ecclesiastical Censures, afford no light Suspicion of his depraved Heart.*

Farther, that having been otherwise received to Mercy, because he had confessed his Errors, and being withal reconciled, and united to the Bosom of holy Mother Church, who, according to her motherly Tenderness, doth not reject those who fly to her, or having vehemently abjured, promising he would not assent to such Errors, under the Penalty of being a Relapse, he hath fallen into them again. All which Things he did, and willingly performed, pretendedly, feignedly, and with an evil Intention, only craftily to escape Punishment, which appears to be plainly proved, since, like the Dog to the Vomit, he hath returned to the same, and the like Errors, as is certain, by sufficient Evidence. Hereby he is become liable to the Punishment of the Relapsed, which therefore by Law I demand may be inflicted on him, and therefore I exhort your Lordship or Lordships, that he may be cut off as a Member, now almost dead, and incapable of the Influences of the Head of the Church, viz. *Christ, and may be thrown out, separated and excluded from the Conversation of the Faithful, that there may be no Occasion to others to waver in the Faith, and the whole Mass may not be corrupted: And because the Church, of whose Mercy he is unworthy, hath nothing farther to do with him, let him be thrust out from her as an unfruitful and barren Tree, and finally delivered over to the secular Judge.*

Farthermore, I accuse him, that being born of the Saracen *Race, and it being therefore prohibited and forbidden him by your Lordships, to have any Correspondence with them, or to eat in their Houses, yet in Contempt of that Command, he hath spoken to them openly, and in suspected Places hath secretly insinuated himself into their Discourses.*

Farthermore, I accuse him of having used scandalous Words and new Opinions in his publick Sermons, not edifying enough the People, yea, he hath rashly given them an handle of erring against the received Doctrine of the holy Fathers, and the Determinations of the School-men. What, hath he not taught all these Things, being moved

ved by Vanity, proud, haughty, and full of Arrogance? Carefully endeavouring to depart from the Catholick and universally received Truth, that he might appear to be singular by the Singularity of his Opinions and Tenets, and might be known among all as one by himself, and the Author of such Things. Wherefore I stedfastly demand that he may be made to recant what he preached, and publickly to change his Mind, at least in those Things that are scandalous, and sound ill, and immediately declare in what Sense he understands other doubtful Matters which are capable of different Interpretations, that from henceforward no one may be scandalized, and that he may be deprived of the Office of Preaching without any Delay.

Finally, since it may be presumed, or is presumed from many Things said by him, and inconsiderately uttered, that the aforesaid Criminal hath possibly asserted or said other Things contrary to the Catholick Faith, and hath believed many other Errors, as an Heretick and Apostate, tho' I do not now accuse him of them, yet I intend, in the Progress of the Cause, to accuse him. Possibly also he knows other Accomplices infected with Heresies, and defiled with this or the other, in the Dominions of our Lord the King, and will not inform against them, least they should be punished. These also, lastly, as far as by Law I can, I denounce and accuse that they may be punished in the same Manner.

Wherefore, I beseech your Lordships, that crediting all the aforesaid Matters, or so much of them as is sufficient, the aforesaid N. *may, by your Sentence, be declared and condemned as a relapsed, impenitent, negative, feigned, pretended, confessing, obstinate, perjured, incorrigible Heretick, and that the Punishments appointed by the common Law, and the pragmatick Laws, and the Instructions of this holy Office, and any others any ways incurred by him, may be inflicted on him; and that finally, according to Custom, he may be delivered over to the secular Arm. To this must be added, that the said Criminal is under Excommunication, and obnoxious to the same, by which all his Goods, moveable and immoveable, any ways appertaining to him, as also all Deeds and Rights are to be applied and confiscated to our Lord the King, and finally, that all his Contracts are to be absolutely and entirely annulled, and finally, that all his Children and Grandchildren, descending from him in the Male Line, even to the second Generation, be declared unfit, unworthy, and incapable of any Offices or Dignities whatsoever.*

But if all those Things proposed by me, and considerately said before this most solemn Tribunal, shall not be so proved by Witnesses as to cause him to be immediately punished as an Heretick, they are however enough to put him to the Torture, by which he may be made openly to discover the aforesaid Matters, and to acknowledge the Errors of which he is accused.

Finally, I call God to Witness, and this holy Cross, that I have not formed this Accusation out of Hatred, or any other evil Affection of Mind, but with this View only, that Crimes may be punished, and the Good of the Common-wealth consulted, and that herein I may be successful, I implore this your holy Office.

Licentiate or Doctor *N.*

In

In the supream Court of the general Inquisition at *Rome*, the Procurator of the Exchequer gives in the Points and Articles containing the Offences instead of this Bill of Indictment.

But the Promoter of the Exchequer must give in Writing the Accusation to the Judge, in Presence of the Person he accuses, and read himself the Bill of Accusation, and immediately swear that he hath not put in the Accusation maliciously, but to discharge his Office, and because he intends to prove the Crimes objected. " But 'tis sufficient, as *Brunus* says, that any Bill *l.* 4. *c.* 7.
" be put in, which, tho' the exact Form of Law is not observed, contains the §. 11, 12.
" naked Intention of the Petitioner. Yea, a Bill is valid in this Process, although it contains no Demand, or a trifling one, so that the Intention of the Petitioner is known by the Declaration."

Here *Gonsalvius* observes, that when the Accusation is put in, in Writing, *p.* 25. it ordinarily contains very many pretended Crimes, which the Criminal never thought of, and for which no one inform'd against him before the Inquisitors; and that for these Reasons. First, That the miserable Wretch may be confounded with the Multitude and Heinousness of the Crimes charged on him, and being almost out of his Wits, may not know where he is, where to turn himself, or what to answer. Secondly, That they may try whether he admits any Thing of the Crimes objected to him, or at least by discoursing with him upon any one of them, may draw him into a Snare. And that this is Truth, and not feigned out of Hatred to the Inquisition, plainly appears from the History of the Inquisition at *Goa*, the Author of which was a Papist, and *c.* 22. says, that when the Heads of his Accusation were read to him by the Procurator of the Exchequer, this was one Article, amongst others, that he was accused, and sufficiently convicted, that he had spoken very irreverently of the Pope, and against his Authority. To which Accusation he answered, that he did not remember that he had spoken of the Pope in the Manner set forth in the Accusation; but that if they would relate to him the whole Discourse, he would sincerely and faithfully confess whatsoever he had said. When, after *c.* 23. this, he was brought before the Inquisitor again, and the Promoter of the Exchequer repeated the same Accusation, they would not open to him the whole Series and Connection of the Discourse, nor was this Accusation afterwards repeated, nor any Mention made of it in his Process, when his Sentence was publickly read at the Act of Faith. From hence he infers, that this Accusation was false, and only brought against him to see if they could fish any Thing out of him.

A Copy of the Accusation is usually given to the Criminal, to which he Simanc. must answer Article by Article, and his Reply must be immediately written *tit.* 44. down by the Secretary before the Inquisitors. But if he continues to deny §. 22. every Thing, he hath an Advocate allowed him, who generally doth nothing more, than deny the Matters contained in the Accusation, and affirms that the Criminal is and always was a Catholick, and that this is plain from his many pious and good Works, and that his Character hath been always very good and unblemished amongst all Persons. Then they come to a Conclusion, and

a certain Term is fixed by the Judges to prove the Matters alledged on each Side, within which the Promotor of the Exchequer produces his Witnesses again, and the Criminal proves his Defences.

CHAP. XVIII.

How the Interrogatories given in by the CRIMINALS *are formed and exhibited.*

IN Order to prepare his Defence, the Criminal also puts in his Interrogatories, and desires of the Inquisitor that the Witnesses may be interrogated upon them. But if they are impertinent, or deceitful, or tending to discover the Informers, or to intangle and puzzle the Witness, or to conceal the Truth, or to discover such Circumstances by which he might come to the Knowledge of the Informer or Witnesses, the Inquisitor hath Power to set them aside.

Cathol. Instit. *t.* 64. *n.* 10. But as *Simancas* tells us, this is not the Method in the *Spanish* Inquisitions, where the Criminals are not allowed to put Interrogatories to the Witnesses of the Promotor of the Exchequer, but the Judge is obliged by Office diligently to examine into the Credit, Life and Manners of the Witnesses. But the contrary is observed in all the Inquisitions in *Italy*, as *Carena* informs us, and that it ought to be thus, he proves by this Reason. *p.* 3. *t.* 7. §. 11. *That by not giving the Names of the Witnesses, the Defence of the Criminals at this Tribunal is imperfect and maimed enough, without introducing any other Novelty; but that the Defences of the Criminal would be necessarily much more imperfect and maimed, if the Witnesses against him should not be suffered to be interrogated by him.*

Pegna, *l.* 2. *c.* 31. In *Italy* 'tis usual for the Criminals Advocate, to demand that the Witnesses may be examined and interrogated, concerning their Country, Age, Condition, State, Employment. As, whether he is rich or poor, Clergyman or Layman, a Religious, Regular or Secular, married or unmarried, a Father or a Son? Whether he be a Citizen or Inhabitant of that City where the Cause is carried on? When he came to the Place? Whether he always lived in it? Whether he lives at his own or other Person's Charge? Whether in no Trial or Case he never deposed upon Oath Things which were not true, either for or against any Person? Whether he was ever excommunicated, and on what Account, and in what Place? Whether he, or his Parents, were not declared infamous, interdicted, excommunicated, and incapable to bear Witness? Whether he confessed his Sins this Year at *Easter*, to what Confessor, and in what Church? Likewise whether he hath taken the Sacrament of the Eucharist, from what Priest, and whom present? Whether he was ever under Inquisition, accused or processed, for any Crime or Crimes, what they were? Whether he was absolved or condemned, and by what Judge? Whether any Thing was said, promised, forgiven, or granted

to him on this Account, that he ſhould bear Witneſs againſt any one, or that he ſhould ſay in his Examination any Thing general or particular, and whether he doth or hath expected any Advantage, and what, by his Depoſition? Whether he hath or doth know *N.* what was the firſt Time, Place, and Occaſion of his knowing him? Whether he hath often converſed with him, and concerning what Matters, and whether when he firſt knew him, the ſaid *N.* was accounted a good and Catholick Chriſtian, a Man of a good Conſcience, and fearing God? Then they proceed to the Articles, and interrogate the Witneſſes concerning the Year, Month, Day, Place and Hour, where and when the aforeſaid *N.* diſcovered Hereſy? Whether he ſpoke it as the Sentiment of his Mind, deliberately and ſeriouſly, or only as repeating another's Words? What the preciſe Words were which he ſpoke? And the like with regard to the other Articles.

CHAP. XIX.

Of the re-examining the WITNESSES, *and the Puniſhment of falſe* WITNESSES.

THE Witneſſes cited by the Judges muſt be carefully examined and interrogated. And firſt they are asked, Whether they know why they are ſummoned? If they ſay they do know or gueſs that they are ſummoned in the ſame Cauſe in which they have already given Witneſs before the ſame Judge, they are aſked, if they remember what they depoſed in the ſaid Cauſe? And whether it be true? And whether they will add, take away, change or correct any Thing? Whatſoever they anſwer muſt be faithfully written down by the Notary. Then they are examined again without ſeeing their former Depoſitions, that the Truth or Falſhood may more evidently appear from their Conſiſtency or Inconſiſtency. Finally, this Confirmation of their Teſtimony muſt be made before the Judges and Secretary, and two religious and diſcreet Perſons. For as the Party concerned is not allowed to be preſent, two Perſons of Reputation muſt be preſent in his Stead. Simanc. *t.* 44. §. 23.

If the latter Depoſitions do not agree with the former, the former muſt be read over to the Witneſſes, and they interrogated what is the Meaning of this Difference in what they ſay, and gently admoniſhed to perſiſt in the Truth. Laſtly, whatſoever they ſay muſt be written down, and if they contradict themſelves, or faulter, they muſt be ſent into Cuſtody, and if the Caſe requires it, be tortured and puniſhed. §. 24.

When a Witneſs ſwears that he will conceal his Evidence, and is afterwards convicted of diſcovering it before the Publication of it, he may be condemned by the Judges at their Pleaſure, either to do publick Penance, or to pay a *tit.* 64. §. 83.

Fine, or to Banishment, or the Pillory, or to be whipped, and, if the Nature of the Crime requires it, to the Gallies.

If the Witnesses are evidently caught in a Falshood, they may be punished by the Inquisitor, according to their Merits. He is accounted a false Witness who tells a Lie, by deposing a Falshood, and who suppresses or conceals the Truth. And if the Inquisitor finds any Witness to be manifestly false, he, together with the Bishop, may punish him. Thus 'tis provided by a certain Rescript of *Leo* X. *An.* 1520. in which there are many Rules for the Observation of the Inquisitors of the Kingdom of *Arragon*, and, amongst others, this which I have mentioned. *And that if any Witness shall depose a Falshood in the said Office of the Inquisition, he shall be punished by the Ecclesiastical Judges, the Ordinaries of the Diocese in which such Falshood shall be committed, and by the Inquisitors of the said Pravity, deputed together, for the Time being, in the same Diocese, so that the one shall not be able to proceed without the other.*

Direct. p. 3. *com.* 122.

Eymerick mentions a Case, which happened at *Tholouse*, *An.* 1312. that a Father accused his Son of the Crime of heretical Pravity, and afterwards retracted it. His Sentence may be seen in the Book of the Sentences of the *Tholouse* Inquisition, *fol.* 42. The Doctors however think, that as there is no Law extant concerning this Matter, such a one ought not to be delivered to the secular Court, but that his Life ought in Mercy to be granted to him. But *Leo* X. by a Bull directed to Cardinal *Adrian*, Inquisitor General of *Spain*, *An.* 1518. granted full Power of condemning to whatever Punishments the Inquisitor should think proper, and of delivering or turning over to the secular Court, without any Fear of any Ecclesiastical Punishment or Censure, or Mark of Irregularity, *all and singular Persons of every State, Degree, Order, Dignity and Condition, who, in the Crime of Heresy, shall be legally proved to have knowingly given false Witness, or to have induced any other to do so, or to conceal the Truth, or to have killed any one for giving true Evidence, or false Evidence not proved so, or to have maimed him in any Member, or to have deprived him, or caused him to be deprived of all, or the greatest Part of his Effects*; which they believe ought to be done in this Case only, when the Witnesses have charged any one with formal Heresy, and the Criminal is delivered over to the secular Court, and punished with Death, as a Negative and Impenitent, upon account of their Evidence. But when any false Witness voluntarily accuses himself, and asks for Mercy before the Person he gave Evidence against is delivered over to the secular Court, and put to Death, they think he ought to be spared, and his Life given him, but that he ought to suffer some very grievous Penance. Thus they acted in that Instance of *Tholouse*, with *Pontius Arnaldi*, a false Witness against his Son, in the Crime of Heresy, acknowledging his Fault, and craving the Mercy of the Inquisitor, who was condemned to perpetual Imprisonment, in which, during Life, he was to do wholesome Penance, with the Bread of Grief, and the Water of Affliction; and besides this, to stand publickly, so as to be openly seen and known by all By-standers, upon an high Ladder, before the Door of the Cathedral Church of St. *Stephen*, the same Day, and the following, from the Beginning of the Morning till the

Direct. p. 3. § 73. *com.* 122.

ninth

ninth Hour, in an open Place, without any Covering on his Head, in his Shirt, or Girdle, wearing two red Tongues, a Span and a half long, and three Fingers broad, before on his Breast, and two hanging down between his Shoulders, and his Hands tied together; and to be placed also in the same Manner, and to stand before the Gates of the Church of St. *Saturninus* the Lord's Day following, and the Lord's Day after before the Gate of the gilded Church; and to wear always upon every outward Garment the said Tongues, and never to go in or out of his Prison without the said Tongues hanging down or appearing, and to mend them when ever they were torn, and to make new ones whenever the old ones should be worn out; and the Moment he came down from the Ladder, to be carried and shut up, without Delay, in the Jayl near the Castle of *Narbonne*, there to remain for ever. The same Sentence was pronounced against *John de Salvetate*, a false Witness, *fol.* 83, 84.

Sentence is pronounced openly against false Witnesses, because they are brought into publick View, and their heinous Wickedness is declared before the People, and their Design and Villany is discovered in express Words, and the Reason given and made known to all why they are thus punished. But if such false Witnesses have done but little Mischief, they receive a lesser Punishment; for they are brought forth, wearing an infamous Mitre, with returning Hereticks, and other Penitents at the publick Act of the Faith, or publick Procession, when their Crimes are read openly, and they themselves bastinadoed or whipped, banished, or sent to the Gallies, or punished with some other extraordinary Punishment.

However, such false Witnesses are seldom punished in a manner proportioned to the Heinousness of their Crime, for this Reason undoubtedly, that they may not deter Persons too much from giving Evidence. The Author of the History of the Inquisition at *Goa*, gives us a memorable Instance of *Joseph Pereira de Meneles*, accused to the Inquisition as a Sodomite, by a certain Enemy of his, who pretended himself to be reconciled. This Person had bribed five of *Pereira*'s Servants, who all, with one Mouth, testified, that they saw their Master committing this Crime with such a Servant. *Pereira* denied the Crime, but the Servant, who was young, thro' Fear of being put to Death, confessed it, tho' never committed. *Pereira*, as a convicted Person, was condemned to be burnt. When he was brought forth in Procession at the Act of Faith, he continued to protest his Innocence. Upon which the Judges remanded him to Prison, and ordered him to be kept to the next Act of Faith, in order, if possible, to find out more exactly the Truth. In the mean while the Witnesses were often interrogated, and being each of them separately asked, whether or no the Moon shone that Night in which they saw *Pereira* committing that detestable Crime, their Answers were found contradictory, and the Falshood of the Accusation discovered; and being put to the Question, they confessed their Crime, and declared their Master innocent. But what was the Punishment inflicted upon the Author of so villanous a Crime? Trifling, in Comparison of the Heinousness of the Offence. *Pereira*'s Enemy,

c. 32.

Enemy, who had bribed his Servants, was condemned to a nine Years Baniſhment in *Africa*, and the ſuborned Witneſſes to the Gallies for five. *Carena* alſo relates from *Diana*, that in the Inquiſition in *Sicily*, a certain Regular, who was a falſe Witneſs, and who had ſuborned others to give falſe Evidence in the holy Office, was condemned to the Gallies for ten Years, and the Women, his Accomplices, to be whipped, and to ſix Years Baniſhment.

From theſe ſlight Puniſhments, which, if compared with the Heinouſneſs of the Offence, bear no Proportion with it, 'tis evident that the Inquiſitors are not willing to deter any one from giving Evidence. And indeed here is a great Inequality between the Offence and Puniſhment. If any one grievouſly wounds a Witneſs, who hath born Witneſs againſt him, altho' he hath not killed him, he is puniſhed with Death; and if the Wound be ſlight, he is condemned for ever, or at leaſt for ten Years, to the Gallies. Whereas he who gives falſe Witneſs, and ſuborns and bribes others to fix by falſe Evidence a Crime upon another, which being proved by the Agreement of the Witneſſes, the Criminal muſt ſuffer the cruel Puniſhment of being burnt, is only baniſhed, and the falſe Witneſſes condemned to nothing more than the Gallies for ten or five Years, or to be baſtinadoed, and baniſhed for ſix. Now who doth not ſee, that the Inquiſitors are careful only to provide for the Security of the Witneſſes, and had rather condemn Perſons loaded with falſe Accuſations, than deter any one by the Severity of Puniſhment from giving a falſe Evidence, which, in this Caſe, ought eſpecially to be regarded, becauſe the Witneſſes are not diſcovered to the Criminal.

Hoofdii, *Hiſt. Belg.* l. 2.

A much more exemplary Puniſhment was inflicted upon a Woman, convicted of giving falſe Evidence, at the *Hague*, by the Command of the Court of *Holland*, *An.* 1561. *William Bardeſius*, Prætor of *Amſterdam*, and M. *Henry Theodorus*, Conſul of the ſame City, were at mortal Enmity with each other, upon Account of ſome political Differences. The Conſul burnt with a Deſire of Revenge, and that he might have a ſpecious Pretence for deſtroying his Enemy, determined to accuſe him of the Anabaptiſtical Hereſy, at that Time univerſally hated for the late Diſturbances which had been raiſed on that Account at *Munſter* and *Amſterdam*. He joined with him in this Deſign, *Florentius Egberti*, Pariſh-Prieſt of the Old Church, and Commiſſary of *Ruardus Tapperus* the Inquiſitor, that the Fraud being thus covered over with an Eccleſiaſtical Varniſh, might be carried on with greater Succeſs. They could not find out a more proper Inſtrument to execute this vile Deſign, than a certain old Woman named *Sophy*, nick-named *Yellow Sophy*, upon account of the execrable Colour of her Body, a Widow, burthened with a great many Children, who made it her Buſineſs to betray the Reformed, who held their private Meetings, not being allowed the Uſe of the publick Churches, and maintained her wretched Family with the accurſed Wages ſhe earned, by informing againſt them. This Woman, with two others of the ſame Stamp, and two Men, one of which was a Notary, they prevailed with, by a little Money, and large Promiſes, to bear falſe Witneſs againſt the Prætor. Their ſeveral Evidences, which were ſuggeſted to them by the Conſul and the Parſon, they confirmed

by

by Oath, in which they declared that the Prætor, who with his Wife, were both re-baptized, had a Meeting of the Anabaptists in his House, and that his Wife was present at the Meeting. This Evidence the Parson sent in Writing to *Ruardus Tapperus*, Inquisitor of *Lovain*. But altho' this Matter was carried on very privately, the Prætor was too quick not to smell it out; and therefore to prevent his being destroyed suddenly, and without being able to make his Defence, he goes immediately to *Brussels*, and applies himself to *Mary* Queen Dowager of *Hungary*, then Governess, and in whom he had a very considerable Interest, and managed his Cause with so much Dexterity and Success, that the Senator *Cornelius Monk*, and with him the Secretary of the supream Council of *Mechlin*, were sent to *Amsterdam* to enquire into the Affair. And they found it no difficult Matter, upon examining the Witnesses, to detect the Falshood and Perjury. But as it was necessary to proceed slowly to make a full Discovery, the Cause was committed to the Court of *Holland*, who deputed some of their Members to make Inquisition concerning it. The two Women were imprisoned at the *Hague*, and being interrogated about the Prætor's Anabaptism, and the Circumstances of it, they said that he was rebaptized in a Chapel that lay near his Garden, and that they saw it thro' the Window standing upon a Bench. Upon this two of the Senators were sent to inspect the Place, and found the Window so very high, that tho' they stood upon the Bench, they could not reach it with their Hand, so that 'twas impossible the Women could look thro' it, to see what was transacted within. And thus the Falshood was discovered. The Authority of the City, and the Favour of the Ecclesiasticks, for some time protected the Consul and the Parson. But the Crime was too enormous to escape unpunished, and therefore both of them were apprehended by Order of the Court of *Holland*, *May* 3, 1557. the Parson, as he was standing before the Altar, and in so hasty a manner, that they would not suffer him to go home, and change his Garments. After this they were both carried to the *Hague*. The Notary and the other Evidence had the same Fate. And though it was difficult to cover over a Falshood, proved by so many Persons, who agreed in their Confessions, yet it was a long while, yea, several Years before the whole was openly discovered. But at last the false Witnesses seeing no Possibility of escaping, asked Pardon for their Offence of the Royal Clemency, and publickly confessed their Falsehood and Perjury. One of the Witnesses was publickly whipped. The Notary deprived of his Office, and banished. The Parson openly confessed that the Accusations he had written against the Prætor and his Wife, to *Ruardus Tapperus*, were rash, impertinent, and without due Information, and said he repented of it, and was therefore commanded to depart from *Amsterdam*, and deprived of the Office of Commissary of the Inquisition. One of the Women died in Jayl, and as to *Sophy*, she had, *May* 3, 1561. her Tongue first cut out, was then hanged, had her Body burnt, and publickly exposed. But before she was carried to Execution, she ingenuously confessed, in the Presence of three Senators, that every Thing she had deposed and given in Evidence upon Oath, and in her Examinations in Court, against the Prætor of *Amsterdam*,

ſterdam, was falſe and forged, and that ſhe was perſuaded to this Villany by the Solicitations, Promiſes and Gifts of M. *Henry Theodore*, Conſul of *Amſterdam*, and of M. *Florentius*, Parſon of the Old Church in that City, and being brought to the Place of Puniſhment, ſhe publickly declared the ſame before all the Spectators. Conſul *Henry* however denied every Thing, and becauſe he could not be convicted by any Thing under his own Hand, he deſtroyed the Evidence of the Witneſſes againſt him, by pleading that they were perjured, and by this Means eſcaped with his Life. He was however kept Priſoner for a long while, but at laſt diſmiſſed, upon giving Security and Bail. This was the Puniſhment inflicted by the ſecular Judge. If the Inquiſitors would proceed with the ſame Rigour againſt falſe Witneſſes, ſo many miſerable and innocent Creatures would not be deſtroyed by falſe Informations and Evidence. But they had rather entice Perſons with hope of Impunity, and when the Falſhood of the Evidences appears ſo plain, as not to be palliated, they chuſe to inflict on them a ſlight Puniſhment, rather than deter them from becoming Evidences, by a Puniſhment juſt and proportioned to their Crime.

CHAP. XX.

How the PRISONER *hath a Copy of the Evidence, without the Names of the* WITNESSES.

Pegna, *p.* 47.

THE Witneſſes having been re-examined, a Copy of the Proofs brought againſt the Criminals is uſually given to them, that they may the ſooner determine, whether they will give up the Cauſe, or ſtand Trial, and in this Caſe the following Things are obſerved in this Court. Firſt, that the Depoſitions be literally given to the Criminal as made by the Witneſſes, that he may fully underſtand what every Witneſs hath depoſed againſt him, ſo that 'tis not ſufficient to give them him in ſhort. Secondly, The Depoſitions are not to be confounded or mixed, but each of them to be diſtinctly and ſeparately from others given him in Writing, that the Criminal may the better underſtand them, and ſeverally anſwer them, and thus be able the better to defend himſelf. Thirdly, The Names of the Witneſſes are not to be given him, nor their Surnames, nor any Circumſtances by which he may diſcover who they are, becauſe ſuch Diſcovery might occaſion great Danger either to the Witneſſes or the Inquiſition, upon account of the Power of the Perſons accuſed, by reaſon of their Family, Riches, or Malice. The ſupream Senate determined the ſame, with reſpect to the Anſwers of the Witneſſes to the Interrogatories of the Criminals, ordering they ſhould not be given them, if the Witneſſes were in Danger of being diſcovered hereby. For the ſame Reaſon they add the Year and Month, but not the particular Day when the Witneſſes affirm the Crime to be committed. Thus alſo the Place is added in

in general, but not the particular House or Room where. All these Things they carefully avoid, that the Criminal may not by any Means discover who are the Witnesses or Informers against him. This they will in no wise suffer. For as they generally say, Secrecy is the very Sinew of the Inquisition. Hence 'tis easy to infer, that many of those Interrogatories which are formed by the Advocates of the Criminals, are not allowed, because they must relate to such Circumstances, which, if known to them, would easily discover to them the Witnesses. However the Advocates, bound to the Inquisition by Oath, must form them, that they may seem to do something for the Criminals, when in Reality they do nothing, and deceive the miserable Prisoners, with the vain Hopes, what they will do in their Defence, when nothing at all is done for them; for whilst the Witnesses or Informers are concealed from them, they are deprived of the best and most necessary Means of their Defence. However, this is strictly prohibited by several Edicts of the Popes, and Instructions of the Inquisitors.

Thus *Innocent* IV. expresly decreed in a Bull published *An.* 1253. *'Tis our Pleasure that the Names both of the Accusers and Witnesses of heretical Pravity, shall by no Means be discovered, because of the Scandal or Danger that may follow upon such Discovery, and yet nevertheless let the Depositions of such Witnesses be entirely credited.* The Council of *Biterre* hath decreed the same, Cap. 10. *But beware of this, according to the wise Pleasure of the Apostolick See, that the Names of the Witnesses be not discovered by any Sign or Word.* Formerly *Boniface* VIII. *c. Statuta.* §. *Jubemus, de hæret. l.* 6. granted that the Names of the Witnesses and Accusers might be discovered, when there was no Danger. *When there is no Danger in the aforesaid Case, let the Names of the Witnesses and Accusers be made known, according as is usual in other Trials. But in all these Things we command both the Bishop and Inquisitors to act with a pure and cautious Intention, and not to suppress the Names of the Accusers or Witnesses, by pretending Danger where there is none; nor on the other hand, to say there is no Danger, when in Reality there is. And let them charge this upon their Consciences.* And this was sometimes observed, as appears from the Sentences of the *Tholouse* Inquisition, in the Sentence of *William Cavalerius* of *Cordua*, who having revoked the Confession that had been drawn from him by Torture, is said to have been convicted by Witnesses. *And the Depositions against him being discovered to him, and read to him plainly, and in his own Language, and the Names of the Witnesses deposing against him expressed,* &c. But now they think there is always Danger in this Discovery, and therefore they never publish the Names or Persons of the Witnesses, because they believe, after such Discovery, they shall never find any Persons willing to become Informers against Hereticks. There is also extant an Apostolick Brief of *Pius* IV. concerning this Affair, beginning, *Cum sicut.* Fol. 131.

In *Spain* also 'tis commanded not to discover the Witnesses Names, by the *Seville* Instruction, *An.* 1484. c. 16. *In like manner, because it appears, and is certain, upon legal Information, that if the Names and Persons of the Witnesses, who depose in the said Crime of Heresy, be discovered, they may incurr great Damage and Hazard, as to their Persons and Effects; for Experience hath demonstrated,*

and doth demonstrate that some Witnesses have been killed, or wounded, and evil treated by Hereticks on the aforesaid Account, and considering especially that there is a great Number of Hereticks in the Kingdoms of Castile *and* Aragon, *their Lordships have decreed, that the Inquisitors may refuse to discover the Names or Persons of the Witnesses who have deposed against Hereticks, because of the grievous Damage and Hazard aforesaid, that the Witnesses are exposed to when their Names are declar'd.*

The same Provision is made by the *Madrid* Instruction, *An.* 1561. *c.* 72. *Altho' in other Tribunals the Judges always bring the Witnesses and Criminals Face to Face, in order to discover whether the Offences are real; this ought not to be allowed, neither is it usually practised in Trials before the Inquisition; because, besides, that hereby Secresy is broken, which is ever enjoined with respect to the Witnesses, 'tis known by Experience, that when ever this is practised, it is attended with no good Effect, but rather with Inconveniencies.* And in the Instruction of *Seville*, An. 1484. c. 16. *When the Proof is made, and the Witnesses re-examined, the Inquisitors must shew their Evidence and Depositions, but suppress and keep secret their Names, and those Circumstances by which the Criminal accused may come to the Knowledge of the Witnesses.* But in the *Madrid* Instruction. *An.* 1561. *cap.* 32. 'tis commanded, that when the Depositions are published, the Month and Year, which the Witnesses swear to, must be added, but not the Day; and in like Manner the Place and Time when the Offence was committed.

De Cathol. Inst. t. 64. §. 26, &c. And this is the Custom at this Time in *Spain*, as appears from *Simancas*. "After this the Evidence of the Witnesses must be shewn, and a Copy of it "granted to the Criminal, those Circumstances only omitted, by which he "might easily understand who they are, that have given Evidence against "him. Hence it is that they don't let him know neither the Hour or Day "in which the Witnesses say the Crimes were committed, unless possibly the "Criminal should demand it to make his Defence. Likewise another Copy "of the Depositions must be written out by the Secretaries, and examined "and corrected by the Inquisitors, and another Copy be inserted in the Acts "of the Process. Besides, the Copy of the Evidence must be given to the "Criminal in such a Manner, as that he may plainly understand, whether the "Witnesses depose of what they have heard from others, or of those Things "they have seen themselves." 1 *Instruct. Hispal.* c. 16.

§. 27. "In this Publication of the Evidence, the Names of the Witnesses must "not be discovered to the Criminal.

§. 28. "Hence it is, that in the Crime of Heresy, the Criminal must not be ci"ted, when the Evidence is ratified, least he should know the Witnesses, "even altho' in all other Crimes the Criminals are to be cited to see the Wit-
§. 29. "nesses. Thus also in all other Crimes the Names of the Witnesses are given "to the Criminals, that they may refute them, and shew their own Innocence; "and this ought always to be done, even altho' the Process be carried on by "Inquisition, least by concealing the Names, Occasion should be given to "wicked Persons of defaming others, and by denying them the Means of "their Defence, of giving false Evidence against them. For no Man ought

"to

" to be denied the Means of defending himself. This ought more especially §. 30.
" to take place in Inquisitions and Visitations carried on against Judges and " their Ministers. For they are placed as a Mark to be shot at, and are not " capable of pleasing all, because they are bound by Office daily to repri- " mand many engaged in Law-Suits to imprison them, banish them, fine, " condemn, and sometimes punish them with Death."

But if any one now should presume, without a manifest Necessity, and un- *Com* 124. *in part.* 3. *Direct.* less there is no manner of Danger, rashly to discover the Names of the Witnesses, Accusers, or Informers, he would act, according to *Pegna*'s Mind, very imprudently, and, for what he knows, fall into mortal Sin; because he would act against so many Decrees of Popes, and against the received Custom of the holy Office, which, though not supported by any Law, yet being a commendable, approved, and legally prescribed Custom, hath the Force of a Law.

And tho' the Criminal insists, and demands, that he be allowed to make his Defence, according to the Course of the Law, and by Consequence that the Names of the Witnesses be shewn him as well as their Depositions, he is not to be heard. Those who are called new Christians in *Spain*, never could obtain it, tho' they used their utmost Endeavours for it. *Ludovicus a Paramo* tells us, that in the Reign of *Charles*, who succeeded his Grandfather *Ferdinand*, the new Converts offered 800000 Pieces of Gold to the King, if he would order the Witnesses to be made known in the Tribunal of the Inquisition. And when the young King, who was but 18 Years old, was greatly tempted by so vast a Sum of Money, Cardinal *Ximenes*, Inquisitor General, by setting before him the great Danger of such Witnesses, and the Damage that would hereby accrue to the Church, wrought upon him to despise that Offer. *l.* 2. *t.* 2. *c.* 5. *n.* 4.

But when the Person accused cannot particularly defend himself upon account of the suppressing the Names of the Witnesses, but can only conjecture in general, not being able to make any tolerable Guess, 'tis recommended to the Prudence of the Inquisitor, to take such proper Measures, as that he may know, whether the said Deponents and Witnesses are the mortal Enemies of the Persons accused or not.

Eymerick, in the third Part of his Directory of the Inquisitors, describes to us six Ways of giving a Copy of the Process to Persons accused of Heresy, suppressing the Names of the Accusers, by which 'tis evident, that this one Thing is determined by the Inquisitors, *viz.* to condemn the Prisoners as guilty, right or wrong, by using various Arts and Impostures, and especially by denying them the principal Means of their Defence.

The first Method is, to exhibit the Names of the Informers, not in the 119 & *seq* Copy of the Process, but in a separate Paper, nor in the Order in which they depose; but in such a Manner as that he who is the first Informer in the Copy, shall be the sixth or seventh in the separate Paper; that by thus changing the Order of the Names, the Person accused may not know what every one deposes.

The ſecond is, to give a Copy of the Proceſs to the Perſon accuſed, and in another Paper the Names of the Deponents, mixing with them the Names of ſome other Perſons, who have never depoſed againſt him in that Affair, that ſo he may object againſt this and the other, and yet never know who hath depoſed againſt him. But theſe ways are greatly diſapproved of, and but ſeldom practiſed, becauſe they can't be of much Service to him that is accuſed, becauſe he can't hereby know who depoſed this and the other Thing againſt him; and may be greatly hurtful to the Accuſers; becauſe the Paper it ſelf makes it certain that the Criminal is accuſed by ſome one of them, and being uncertain by whom, he may form a Reſolution againſt thoſe who have never depoſed againſt him, or whoſe Depoſitions againſt him are true, or who have depoſed in his Favour. And thus he may lay Snares for them, and bring them into very great Danger, which they carefully provide againſt.

The third Way is, that the Perſon accuſed is interrogated when he is examined, at the End of his Confeſſion, and before the Copy of the Proceſs is granted him, whether he remembers that he hath any mortal Enemies, who, laying aſide the Fear of God, may charge him falſely with heretical Pravity; ſo that without farther thinking, and before he ſees the Depoſitions of the Witneſſes, he may anſwer either that he doth not remember that he hath any ſuch Enemies, or that if he doth call any ſuch to mind, he may name them as they occur to him.

Campeg. in Zanch. c. 13. If he ſays he hath no ſuch Enemies, the Inquiſitor may charge him to think well upon the Matter, and allow him a convenient Space of Time to conſider of it, and to write down their Names if he remembers any, and thus deſcribed, to exhibit them to the Judge with the Notary and Witneſſes. The Judge muſt cauſe all theſe Things to be inſerted in the Acts, *viz.* that ſuch a one, *&c.* appeared ſuch a Day, *&c.* before the Inquiſitor, *&c.* and gave in a certain written Paper, containing as underwritten, which muſt be inſerted at length. After which the Judge gives him his Oath, and asks him whether that be his Writing, and written with his own Hand? Likewiſe, whether he affirms that all and ſingular the Matters contained in it are true? Likewiſe, whether all and ſingular the Perſons, there deſcribed by Name, are his mortal Enemies? Likewiſe, concerning the Time, Riſe, Cauſe or Occaſion of the Enmity? Likewiſe, whether beſides the before-named, he hath any other Enemies, and whom, and what the Cauſe and Time of the Enmity? Again, whether after ſuch Enmity contracted or ariſen, he hath ever made uſe of them as Evidences for him in any Civil or Criminal Cauſe? To theſe other Interrogatories may be added at Pleaſure, as the prudent Judge ſhall think proper, from the Anſwers given to the Premiſes, and other reaſonable Circumſtances; which being well conſidered, and diligently examined, it will be eaſy to diſcover whether the Enmity pretended be real or not. But even here they are particularly cautious, that whilſt they are thinking of Methods to find out the Enmity of the Witneſſes, the Criminals may not come to the Knowledge of them. Theſe Things almoſt agree with the Words of the Biſhop of *Albano*, in which he preſcribes what the Inquiſitors muſt do in ſuch a

Caſe,

Case. *Moreover, let the Inquisitors inquire from the Person against whom they are to proceed, whether he hath any mortal Enemies, or certainly suspected to be so, who, thro' Hatred, might swear against him, and let him put down their Names in Writing, whom he says he hath Reason legally to suspect; and let them proceed and receive other Witnesses against him, and yet nevertheless they may receive such suspected Witnesses if they judge it proper.* And a little after he adds, *And altho' the Witnesses, who are said to be suspected, or found to be Enemies, are not to be believed, unless there be any Thing that may legally support their Evidence.*

The fourth is, that the Person accused, in the End of his Confession, before he is allowed to make his Defence, should be interrogated concerning those Witnesses who have deposed the most heinous Things against him, as tho' they were accused themselves, after this Manner. Do you know such a one, naming one of the most considerable Witnesses? If he saith he doth not, he can't reject him in his Defence as a mortal Enemy, having declared upon Oath he did not know him. If he answers, that he doth know him, he is interrogated, whether he knows, or hath heard that he hath said or done any Thing against the Faith? Then he is asked, whether he is his Friend or Enemy, and presuming that he will answer, His Friend, that his Evidence for him may be admitted, he can't after he hath said so, reject him as a mortal Enemy. *Eymerick* is for using these two Methods but seldom, because, tho' not at all dangerous to the Deponents, they are prejudicial to the Accused. But yet he approves that the latter should be used against cavilling and cunning Persons, and says that he himself hath sometimes, tho' seldom, taken this Method against such Persons, whereby, as the Apostle says, *being cunning, he caught them by Guile.*

Camillus Campegius adds, if he answers, that he doth not know that he hath said any Thing against the Faith, the Inquisitor must not omit to ask him, whether he be his Friend or Enemy? If he answers, his Friend, but that he would not be silent even on this Account, but would come in Evidence against him, if he knew that he had offended against the Faith, he can't object against him any more in this Cause as a mortal Enemy. For this is to be remarked, that he who once allows a Witness, can never after reject him. *In* Zanch. c. 13.

The same *Campegius* adds another Way, *viz.* the Inquisitor asks the accused Person in his first Examination, what he thinks to be the Reason of his being apprehended or imprisoned? Likewise, who he suspects to be his Accusers? And if he particularly names any, he is asked, why he suspects them rather than others? To which Question perhaps he will answer, by assigning, as the Reason or Cause, Hatred, a Law-Suit, or Quarrel, or some like Matter. After this the Inquisitor asks him again, whether he hath any other Enemies, and who they are, and of the Time, and Occasion of their Enmity, as above. He asks him again, who were present, when the Persons he rejects as Enemies, assaulted or wounded him, and the like, and by whom he can be informed of the Reality of such mortal Enmity. After this the Inquisitor diligently considers his Answers and Assertions, and receives Informations from religious Persons concerning the Credit of the Witnesses, in order to find

out

out the Truth, and if he finds that the Witnesses are justly charged with mortal Enmity, he must consult the Laws, Doctors and Counsellors, and then act as he sees fit.

The fifth is, to give the Person accused a Copy of the Process, suppressing the Names of the Deponents, so that when he sees the Depositions, he may conjecture who it was that deposed so and so against him. On this sometimes he names several as his mortal Enemies, assigning the Reasons of it, and producing his Witnesses. If he guesses at any, the Inquisitor enquires the Causes of the Enmity; if they are not sufficient, he rejects them; if they are, he examines the Witnesses privately, who, upon not giving legal Proof are rejected. This is performed with the Advice of the Learned. And this Method is generally observed.

The sixth is, that when the Person accused says, upon giving him a Copy of the Process, that he hath many mortal Enemies, names them, and assigns the Reasons of such Enmity, the Diocesan and Inquisitor hold a Council of Divines and Lawyers, cause the whole Process to be read over by the Notary, discover to them the Names of the Witnesses and Deponents, and oblige them by Oath, or under Penalty of Excommunication, not only to give sound Advice, but also to observe perfect Secresy. After this 'tis debated amongst them, whether they fully know the Person accused, and the Witnesses, and whether there is mortal Enmity between them? If they fully know them, their Counsel and Advice is stood to, and whosoever are adjudged by them to be mortal Enemies, are rejected from giving Evidence; and those who are adjudged not to be so, are admitted. If the Counsellors do not fully know the Person accused and the Witnesses, two, three or four Persons of Reputation, well acquainted with the Criminal, are chosen by their Advice, out of the City, where the accused Person dwelt. One of these at least, or two, must be Parish-Priests, and another, if it can conveniently be, a Religious, and the others Layicks, reputable Men, zealous for the Truth. These are secretly called together by the Bishop and Inquisitor, and being obliged to speak the Truth by Oath, or under Penalty of Excommunication, are interrogated, concerning the mortal Enmity or Friendship of the Person accused, and the Witnesses. The Bishop and Inquisitor entirely acquiesce in their Judgment, so that after they have well and carefully considered the Matter amongst themselves, they reject from being Evidences such as these Persons say and prove to be the Accuseds mortal Enemies, and admit these which they say are not. This is the usual Method, and seems to agree with the Determination of the Council of *Biterre*, Cap. 10. *But let Care be taken of this, as the Apostolick See hath carefully determined, that the Names of the Witnesses be not discovered by any Act or Word. But if the Person, under Inquisition, insists on it, and says that possibly he may have Enemies, or that some Persons have conspired against him, let the Names of such Enemies or Conspirators, and the Occasion and Truth of such Enmities and Conspiracies be so drawn out of him, as that the Safety of the Witnesses, and the Persons also to be convicted, may be provided for.*

And

And in order the more effectually to prevent all Danger to the Witnesses, which may arise from their being known, *Camillus Campegius* advises, not only to suppress their Names, but even all Circumstances that may tend to point out or discover them. For he says he hath oftentimes seen that the granting such a Copy hath given Rise to Enmities, Hatreds, Wounds and Death; and sometimes, that those under Inquisition, falsely imagining a Person to have deposed against them, who hath not, nor said or did any Thing against them, have notwithstanding, thro' such a false Persuasion, contrived not only greatly to injure him, but even his Destruction. Thus it happened at *Ferrara*, and at other Places, as he says he was credibly informed. And therefore he advises the Inquisitors, to proceed very cautiously in this Affair, and so to defend the Catholick Faith, as to secure the Lives of the Witnesses. For he says there are few to be found, who are willing to inform or depose in this Cause of Hereticks, and that if the Safety of the Witnesses should be endangered by the World, he imagines there would not be so much as a single Informer.

When any just Exceptions are objected against the Witnesses, the Criminal is admitted to prove them. But his Witnesses are so cautiously examined, as if possible to prevent their knowing who the Witnesses against the Criminal are. And, in order to this, they are interrogated not only concerning the Enmity or Conspiracy of the real Witnesses against the Criminal, but of others also who are not Evidences against him.

But here I cannot omit, what *J. Royas* says, "That by suppressing the *Part.* 2.
" Names of the Witnesses, Criminals are deprived of the full Means of making *Assert.* 4.
" their Defence, and by Consequence it must be very imperfect and maimed. " For which way can the accused Person, kept secretly in Jayl, and deprived of the Comfort and Assistance of his Friends and Relations, and Procurators, either object the Defects of the Evidence, or the just Exceptions against the Witnesses, if he is ignorant of their Names, if they should happen to be his Enemies, or Criminals themselves, or infamous, or excommunicated, or otherwise uncapable? For, in so heinous a Crime, punished with all Kinds of Punishments, *viz.* Excommunication, Forfeiture of Estate, the Delivery of the Person to the secular Arm, his own and his Family's perpetual Infamy, stronger Proofs are necessary than in other Crimes. Nor can it be rash to assert, that the Witnesses, whose Names are not discovered, cannot be, as to the Criminal, above Exception; because he cannot object any Thing against them, when he doth not know them. They only are said to be beyond all Exception, who cannot be rejected as Witnesses by any just Exception made against them; and therefore, as in this Case, one solemn Usage of the Law is over-ruled by suppressing their Names, there is no Room to urge against them Crimes, Defects, and Objections. But afterwards, as I considered the Words of the Extravagant of *Innocent* VI. *That full Credit shall be nevertheless given to what such Witnesses say*, I am, upon this Account, ready to recant. However, in my poor Opinion, I should not dare to condemn any one if there were

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"two legal Witnesses only, in so grievous a Crime, upon so maimed and imperfect a Defence by the Criminal, but should follow the Opinion of *Hastiensis*, as the more equitable, who determines, that two Witnesses only are not sufficient to prove the Crime of Heresy, but that three or more are requisite, unless the Person accused be one of an ill Character or Reputation, and there be other Circumstances concurring against him, in which Case the common Opinions of the Doctors may be followed.

"However, 'tis the Judgment of most, that the Custom observed in reproducing the Witnesses, and examining them in full Judgment before the Inquisitor and two religious Persons, according to *Cap. ut officium*, §. *verum.* de hæret. l. 6. & *Instruct. Tolet.* c. 14. abundantly supplies the other Defect of not exhibiting the Names of the Witnesses, when their Evidence is given in. But in my Judgment they are greatly mistaken; because this Omission is in an essential Point of Law, and the Custom of examining before these religious Persons is, as Experience teaches, of little or no Effect. For 'tis too common with the Generality to persist in what they affirm or deny, whether true or false, and they think it Advantage enough to have their own Wills".

Since therefore they are so exceeding cautious not to discover by any Means the Informers or Witnesses to the Criminals, 'tis evident they are not brought before, or confronted with one another, that they may be heard against, and what they say and answer be opposed to each other. *Carena* teaches us, that Persons are seldom confronted in the holy Office, and that 'tis never done in the supream Tribunal of the City, unless the Cause be fully known, and the Cardinals supream Inquisitors interpose by their Decree, who usually determine, whether or no any Danger may accrue to the Witnesses and Criminal by being confronted. But because sometimes it happens in the holy Office, that the Criminal must necessarily be seen and pointed out by the Witnesses, this is done not by openly confronting them, but by making the Witnesses look through the Crevices of the Door of some fastened Room, where the Criminal is put, in Company of some other Persons alike in their Dress, Stature, and Face. This *Carena* says was practised formerly in the Inquisition at *Cremona*, according to the Command of the sacred Congregation, where a certain Regular, who had contracted Matrimony, was thus viewed and pointed out, notwithstanding his Confession, that the Sentence of the Nullity of his Marriage might be more safely pronounced.

P. 3. t. 7. §. 6.

CHAP.

CHAP. XXI.

How the Articles and Witnesses for the CRIMINAL *are produced and examined.*

WHEN the Criminal hath received a Copy of the Evidence and Proofs against him, if he insists on his Defence, a certain Term is granted him to exhibit the Articles by which he would prove his Innocence. This Term is not fixed to any precise Day, but left to the Pleasure of the Judge, who can grant him more or fewer Days, as he thinks fit. And because the Defence of the Criminal consists of three Parts, *viz.* in denying the Fact, or disabling the Witnesses, or proving his good Life and Behaviour, his being a good Christian or Catholick, the Articles to be proved are disposed into Method, according to the aforesaid Division. But yet the prudent and Catholick Procurator or Advocate must consider his Oath, and both insert in the Articles the Things which he believes to be true, just as they have been suggested to him by the Criminal, he is to defend, and continually admonish him simply to confess the Truth. Pegna, *l.* 2. *c.* 48.

At the End of the Articles produced by the Criminal, the Names of the Witnesses by which he would prove his Innocence, are put down, and the particular Article upon which he would have each Witness examined, specified. For as it can't easily happen that any single Witness should know all the Matters contained in all the Articles, therefore to prevent the Inquisitor, or he to whom the Inquisitor commits the Examination, the Trouble of being forced to guess who knows the Contents of such and such an Article, or of examining all the Witnesses upon every Article, 'tis particulary shewn, that such a Witness must be examined upon such and such an Article, and so of the rest. By some he endeavours to prove, that the Person who he imagines hath deposed against him, is his mortal Enemy; by others, that he hath lived a good Life, and so on. *c.* 49.

If after the Articles have been produced and admitted, the Criminal will add one or more additional Articles to them, the Inquisitor may admit them as well as the first, because 'tis not expresly prohibited by Law. In forming these Articles, a skilful Advocate or Procurator must consider those Things, which may either remove or extenuate the Crime, *i. e.* prove the Falshood of the Accusation, or extenuate the Guilt by proper Circumstances; as, whether the Person was mad or drunk when he said it, of which more hereafter.

After the Criminal hath once produced and named his Witnesses, the Inquisitor may, if he sees fit, and knows there is no Fraud or Deceit, allow the Criminal to name others afterwards, and admit them.

Cap. 50. When the Witnesses thus produced by the Criminal have deposed before the Inquisitor, a Copy of their Depositions is given to the Procurator of the Exchequer, who, in his Turn, exhibits his Interrogatories upon them, that the Witnesses brought by the Prisoner in his Defence, may be examined upon them. And here, just as the Criminals Advocate doth, he asks abundance of Questions about the Witnesses Person, Condition of Life, and whether they know the Criminal, or are any ways a-kin to him? and the like. Besides this he is asked, How he came to put himself upon this present Examination? Whether any Body desired him to do it? And who? With what Words? And what he the said Witness answered? Whether the Articles upon which he was to be examined, were shewn him? Or whether he hath been otherwise instructed what to depose? Whether any Thing hath been given, promised, or forgiven him, and what? Whether he expects any Advantage by his present Deposition, or by the Delivery of the Prisoner out of the Jayl of the holy Office, and what? To these he adds others suitable to the Affair, and thus running over every Article produced by the Criminal, he demands that his Witnesses be interrogated upon each of them.

Cap. 52. The Procurator of the Exchequer of the supream Senate of the general *Roman* Inquisition, usually demands at the End of his Interrogatories, that the Inquisitor, who is to examine the Witnesses, will form other proper Interrogatories, as the Matter shall require, and the Answers of the Witnesses shall make necessary. For it often happens, that as the Witnesses are examining, such Things are said by them, as give Occasion to new Interrogatories, so necessary and suitable to the Case as tends very much to discover the Truth.

'Tis sometimes the Custom, as *Pegna* tells us, for the Procurator of the Exchequer of the holy Inquisition, at the End of his Interrogatories, to put such an Interrogatory as this against a Criminal to his Witness. Whether he knows, or hath heard it said, that the said *N.* in the said City of *N.* was accounted as one suspected of Heresy, and a Man of an ill Character, Opinion and Fame, in Matters relating to the holy Catholick Faith? If he answers Yes, he is asked how he came to know this, and must name the Errors and Heresies, who were Witnesses with him, at what Time, what the particular Place, all which he must particularly relate. If he answers No, he is interrogated, How 'tis possible that the said *N.* should be accounted as one suspected of Heresy, and otherwise of evil Life, Condition and Fame, in Matters appertaining to the holy Catholick Faith, and yet he the said Witness should be ignorant of it? *Pegna* adds, that the second Part of this Interrogatory seems to him very dangerous, and proper only to invalidate the Evidence of the Witness for the Criminal. For if such Witness should answer, 'tis possible that *N.* may have been suspected of Heresy, and yet that he might be ignorant of it, his Evidence would be weakned. And altho' some Doctors greatly admire such an Interrogatory, and say that 'tis a most excellent and admirable one, and what will invalidate the Depositions of almost all Witnesses for the Criminal, yet he is rather of Opinion, that if such an Interrogatory should be

put

put by the Procurator of the Exchequer, it ought not to be allowed by the Inquisitor; least if an ignorant Witness, which almost all the common and vulgar People are, should answer, it was possible, and really is so, the same Procurator of the Exchequer, after the Process is ended, and the Proofs examined, should by such a Caution shake the Credit of all the Proofs urged in Behalf of the Criminals.

If there is any Reason to doubt of the Faithfulness, Constancy or Silence of any one of the Witnesses, *viz.* that, if dismissed after his Examination was ended, he would confer with any other Witnesses to be examined, he is usually kept in the holy Office till after their Examination. But if he be an honest Man, of good Condition and Reputation, and in no Danger of discovering any Thing he hath acknowledged, he is immediately dismissed after his Examination.

No Copy of the Depositions is or ought to be given before the Examination is finished. But if after the Examination of some, the Criminal declares that he renounces any farther Examination, a Copy may be given him.

Altho', after the Publication of the Evidence, Witnesses are not to be admitted upon the same Articles, or others contrary to them, yet in the Cause of Heresy they are always to be allowed, whether it be for or against the Criminal; because, as this Publication is done in private, there can be no Suspicion of the Witnesses being corrupted in these Causes. Simanc. *tit.* 64. §. 50.

It often happens that the Witnesses to be re-produced, or otherwise examined, are absent from the Place in which the Action is carried on against the Criminal, and therefore there must be a Commission to examine them, or their Examination must be committed to some proper Person. And altho' in Criminal Causes such Commission for examining distant Persons is not allowed, the Judge himself being to interrogate the Witnesses, and to consider with what Steadiness, Trembling, or Countenance they speak, yet such Commission is granted in the Crime of Heresy, and especially when the Witnesses are in remote Places, and in other Dioceses, and can't come to the Inquisitors without great Expence. Pegna, *Cap.* 54.

With these Letters of Commission there must also be sent to the Judge or Inquisitor, to whom the Examination of Witnesses in Behalf of the Criminal is committed, Articles and Interrogatories, upon which the said Witnesses must be examined, in the same Manner as if they were examined by the Inquisitor before whom the Cause is tried. But the Inquisitor or Bishop, who delegates the Examination to another, must not allow the Party to give Articles for the Witnesses, before the Judge to whom they direct the Examination, but they are to be given to the Judge of the Cause. When the Examination is ended, the Judge, who receives these remissory Letters, must take Care to transmit to the Inquisitor who delegates him, an authentick Copy of the original Process, faithfully extracted, compared with the Original, and subscrib'd by the Judge and Notary. But if it can be done without Danger of losing it, the original Copy it self must be sent to him, and the delegated Judge keep the authentick Copy by him.

If whilst the Cause is depending there arise new Proofs against the Criminal, or he commits a new Offence, or if there appears any Thing favourable in his Behalf; if, for Instance, the Informer or Witness, upon recollecting himself, comes to depose any Circumstance that may extenuate the Crime; or if any other comes to discover any Thing that may make the Criminal's Innocence appear, they are to he received. This is especially to be observed, in case any Discovery can be made of a Conspiracy against the Criminal, or of the Subornation of the Witness or Witnesses to give Evidence against him.

CHAP. XXII.

Of the Defence of the CRIMINALS.

Cap. 57. AFTER the Parties have prepared their Proofs, *Pegna* says, a Copy of the defensive Process must be delivered to the Criminal. But *Carena* observes, that for the Space of twenty Years, during which he acted in the Inquisition at *Cremona*, he never saw a Copy of the defensive Process given to the Criminals in that Court, and he advises all the Inquisitors, to act in the same Manner; because sometimes the Criminal produces in his Defence Witnesses of a tender Conscience, who rather make against him, and for this Reason Inconveniencies may arise from the Grant of this Process. And this he says is the Practice of the *Spanish* Inquisition. But whatever the Copy is which is granted him, he hath a Term fixed him for making his Defence, within which, if he thinks fit, he gives in his Informations as to Fact and Law, to prove his Innocence.

Simanc. *Cath. Inst. c.* 17. Obstinate Hereticks are denied a Defence, but Criminals, not yet convicted, are allowed to make the best they can. The first and principal Defence of those who are innocent, is to deny the Crimes which are falsely objected to them. Such a one must constantly persist in his Denial of them, that he may not unjustly condemn, and give false Evidence against himself. Such a one however can't prove directly by Witnesses that he did not say or do such a Thing; but when the Place and Time of the Crime, said to be committed, is assigned, he may prove that he was not then and there present, and that therefore he did not say or do any Thing of which he is accused. And when he hath proved this by several reputable Witnesses, he is to be absolved.

Another kind of Defence is, if he can refute the Witnesses, *i. e.* if he can prove they are his Enemies, or suborned with Money by his Enemies, or have conspired against him.

But 'tis not an easy Matter to set aside the Witnesses in a Cause of the Faith, because, as we have said, in favour of this, infamous Persons, such as are privy to and Accomplices in the Crime, excommunicated Persons, and those

those guilty of any other Crimes whatsoever, are here admitted as Witnesses, especially when other Proofs are wanting. Nothing legally sets aside any one from being a Witness but Enmity only, and that neither unless it be mortal. Lesser Enmities will somewhat weaken the Evidence of the Witnesses, but not absolutely set them aside. This is determined by the Councils of *Biterre*, cap. 12, 13. and *Narbonne*, cap. 24, 25. *Altho' in this Crime all Criminals, infamous Persons, and Accomplices in the Crime, are to be admitted as Accusers and Witnesses, such Exceptions only shall wholly destroy the Credit of the Witnesses, which can be made appear to proceed not from a Zeal for Justice, but the Instigation of Malice, such as Conspiracies and mortal Enmities. Altho' other Crimes weaken, they don't destroy the Evidence, especially if the Witnesses have repented of their Crime.* Eymer. *Direct.* *p.* 3. *n.* 118.

Besides this Exception against the Witnesses, there is another kind of Defence, which the Advocates make use of to wipe off and break the Force of the Accusation, *viz.* to prove that the Criminal is, and always was a Catholick, and that this evidently appears from a great Number of pious and good Works that he hath done, and that he always had an entire good Reputation amongst all Persons. But *Royas* shews that all this is trifling, and of no Weight. *Altho' several Witnesses depose in general that such a one is of good Reputation, their Evidence signifies nothing to prove him to be a Catholick, if he be convicted by two Witnesses to have said or done any Thing in particular against the Catholick Faith.* Simanc. *Cath. Inst.* *t.* 44. §. 22. *de hæret.* *p.* 1. *n.* 346.

If the Criminal confesses his Offence, the Cause is finished. If he confesses it, but with the Addition of some Circumstance, that either takes away, or lessens the Crime, the Procurator of the Exchequer receives the Confession of the Offence, and puts it upon him to prove the Circumstance added. Now there are various Circumstances to be urged in Abatement, which the Advocates use in defending Criminals. As if Heresy was spoken by a Madman, an Infant, or a decrepit old Man, except such aged Person hath his Judgment entire. Likewise if it be pronounced in a Dream, or by one so drunk as to be quite out of his Senses; or if by one, who, without any ill Design, relates the Heresies of others; or who, by a Slip of his Tongue, drops any Thing heretical, and immediately retracts it. Or if any one errs against any Article of the Catholick Faith without Obstinacy, which he is not obliged explicitely to know, and especially if drawn into this Error by one whom he was obliged to believe. Very great Simplicity also may excuse; also a Joak or Jest, if thoughtlesly pronounced, and in haste, upon a particular Occasion, and without Deliberation, may sometimes excuse from Heresy, tho' such Persons may be punished as rash and evil Speakers. Add to this, any one's saying or doing any Thing heretical, thro' Fear of Death or Tortures. Such a one indeed grievously offends, but yet is not an Heretick. For, as *Brunus* says, as a forced Confession of the true Faith doth not make a Catholick, so neither is the asserting a forced Error to be imputed for Heresy. Finally, such Things as are uttered thro' any vehement Commotion of Mind, such as Love, Jealousy, Anger, suddain Grief, and the like. There is also a kind of Defence taken from the Command of a Superior. As when a Servant by his Master's Command breaks Images, or commits any such Thing, he is to be Simanc. *Cath. Inst.* *t.* 17. *l.* 1. *c.* 4. §. 10.

more

l. 4. c. 8. more gently punished. *Brunus* adds, that an Heretick may object, that the
§. 13. Cause hath been already judged, and the Affair determined, which is allowed, whether Cognizance hath been taken of the Crime either by Accusation or Inquisition.

There is also another kind of Defence, *viz.* when any Person confesses some heretical Word, or Fact, but denies the evil Intention, and thus shews himself to be clear of Heresy, because Heresy consists properly in the Mind. When this Defence is urged, the Criminals are tortured to discover their Intention, and to make them fully and entirely confess. But this they limit in certain Cases, and don't proceed to the Torture to find out the Intention, if there be no considerable Proof of the Crime besides the Criminal's Confession, and when there is just Ground to conclude by the Circumstances of the Fact and other Presumptions, that the Criminal offended with a quite different
Art. 3. t. 8. View, and not thro' an heretical Mind. *Carena* relates a memorable Instance
§. 1. of this decided before the Tribunal of the holy Office at *Granada*, by *Francis Marin de Rodezno*, Inquisitor at *Granada*.

In the Year 1640. *Apr.* 5. on *Thursday* in the Week before *Easter*, there was a Writing fixed upon the Gates of the Senate-house at *Granada*. In this Paper the Law of *Moses* was greatly extolled, and the Sect of *Calvin* commended, and the most holy Faith of Christ accursed with the most terrible Imprecations. The Virginity and Chastity of the Mother of God was denied in so very obscene a Manner, as would scarce become a common Whore prostituting her self in a Bawdy-house. He also, with a Shew of Compassion, advised all Persons, that they would not thoughtlesly suffer themselves to be drawn away by a false Religion. And finally he threatned, that he would cause to be destroyed all those Regards of Worship and Piety, which the City of *Granada* payed to a marble Image of the Virgin, erected as a Token of Victory, and placed in an open Field over-against the Gate of *Elvira*, at the Entrance into the City, and commonly called, *Our Lady of Triumph*. This Writing was seen by two Men after the Dead of Night was over, by Twilight, and as the Paper and Character was very extraordinary, it easily excited their Curiosity, and altho' they were ignorant of the Contents, they took it down from the Gates. But after they had read it, and perceived the Wickedness and Blasphemy of it, they carried it the next Day to the sacred Tribunal of the Inquisition. The Report of this Wickedness immediately took Air, and the Enormity and Greatness of the Crime alarmed the whole City of *Granada*.

One Friar *Francis Alexander* was appointed by the Senate of *Granada*, to take Care of the Worship of the said *Lady of Triumph*, who, upon this Account, was, after the *Spanish* Custom, called, *The Hermit*, and whose Habit was very agreeable to his Office. He pretended to his Neighbours that he was injured above all others by this Offence done against the Mother of God, and in his private Conversation in the City oftentimes inveighed against the Heinousness of the Crime, and at last deposed in a legal Manner what he had Reason to suspect, and what he himself had observed in that sacred Night. But as nothing came of the most diligent Inquisitions that had been made into

into the Affair, there arose at last great Suspicions and Presumptions against the Hermit himself, after his own Depositions had been privately, and at Leisure considered. His Depositions were found inconsistent and contradictory, tho' he made them voluntarily and freely, without any one's asking or calling upon him, and in some of them he was openly convicted of Falshood. Several times he repeated several of the very Expressions of the said Paper, so expresly and particularly, as could not possibly be done by any one who was not the Author of it, or at least privy to it; whereas he himself confessed, after he had been informed against before the Tribunal, that he had neither seen nor read it. And when a certain Person said before him, that it was commonly reported thro' the City that he was the Author of the Paper, when the Suspicion was insinuated, he immediately turned pale, and dextrously shifted the Discourse to something else, without mentioning a Word of the Affair, tho' his Countenance was observed to fall. The Circumstances of the Person added to the Suspicion, as he was a Man of an ill Life and Behaviour, remarkable for Hypocrisy, and guilty of many Crimes. And finally the common People were universally persuaded, and all affirmed, as with one Voice, that no one else could be guilty of so heinous a Crime.

Upon this the Hermit was ordered to Jayl, and after three Admonitions made on three several Days, and upon comparing other Writings of his with the Letters of this Paper, finding that they were exactly similar and perfectly alike, and that therefore the Hand and Author must be the same, he was cited by the Fiscal of the Inquisition, and arraigned for the Crime, and immediately ingenuously confessed it, and began to give an Account of the past Course and Manner of his Life, saying that he was a Religious of a certain very venerable Religion and Fraternity, a Lay Brother, and Professed; but that on the Account of certain Differences and Quarrels therein he fled, and had forsaken his Religion several Years. But inasmuch as he had not lost his Regard to Piety and Religion, tho' he had changed his Habit, he travelled to *Jerusalem*, and there visited the holy Places, where, thro' a peculiar strong Affection to the Mother of God, he had received certain Marks on his Arms as a constant Monument of his Devotion. From *Jerusalem* he came to the lower *Pannonia*, and in the City of *Vienna* built and dedicated a Temple to *our Lady of Conception.* After this he returned back to the City of *Granada*, where he had consecrated his Life to *our Lady of Triumph*, and the Care of her Worship. And that when he had found that there was nothing done towards finishing her Temple, and that the Devotion of the Faithful grew cool, he was excited by these Motives to endeavour to encrease the Worship and Veneration of that sacred Place, and that with this View he fixed up the Paper filled with Reproaches and outrageous Affronts against the Mother of God, and particularly directed against *our Lady of Triumph*. And that he might prevent himself from being suspected of the Crime, and throw it upon one of the *Jewish* Race, who are more liable to Suspicion, he wrote in the Paper an high Encomium of the Law of *Moses*, and an Abjuration of Christianity. And finally, that no *Portugueze* might be thought guilty of this Wickedness, and

that

that that Nation might not come hereby into Discredit, he added a very great Commendation of the *Calvinistick* Sect, to which, as he now thinks, he was moved by the Instigation of the Devil. For he thought that by this Means he should more easily bring the People into a more fervent Devotion, in order to expiate the Wickedness of that Paper, and persuade them to celebrate the most venerable, pompous, and magnificent Ceremonies in Honour of the Virgin, to finish her Church, and to encrease the Veneration and Worship paid her, and finally to render that sacred Place famous for its being resorted to by great Multitudes from that City and the neighbouring Towns. And therefore that he was so far from fixing up the aforesaid Paper out of an heretical Mind, and from believing the Errors contained in it, that he did it with a quite contrary Design, and always intended hereby to encrease the Honour and Worship of the Virgin, as became a Man faithful to the Mother of God, a Christian, and also a Catholick, and one born of pious and Catholick Parents.

When they had heard his Confession, and examined and finished his Cause, they did not think proper to put him to the Torture, for discovering his Companions or Accomplices, and whether or no he acted with an heretical Intention; because many Circumstances and Presumptions concurred, which not only gave Reason to think, but notoriously proved that the Criminal had no heretical Intention, but that his only Design was to cause greater Veneration to be paid to *our Lady of Triumph*, that he himself might be held in greater Esteem, and so obtain more liberal Alms. Nor did they think proper to deliver him over to the secular Arm, because he had fixed up the Paper to bring the greater Honour to the Virgin, and because as soon as ever his Accusation was read over, he ingenuously confess'd his Crime; and finally, because he had implored Mercy with many Tears and Signs of Repentance, and, during the Time of his Imprisonment, had undergone many voluntary Penances, macerating his Body by Whipping, Fastings, and other Chastisements, and was a Monk of a most venerable Religion, which had produced many Saints, whose Merits were sufficient to supply and excuse the Errors of others, at least so far as to save them from Punishment. It was therefore decreed, that the Criminal should come forth at a publick Act of the Faith, if there was any one near at hand; or if not, that he should appear in some publick Church with the Marks of a Blasphemer, with his Tongue in a Gag, that he should, as one vehemently suspected, be condemned to the Gallies for ten Years, and without any Stipend suffer perpetual Banishment from the City, the whole Kingdom of *Granada*, the Royal Court, and five Leagues around it; and that he should be exposed in the Habit in which he was apprehended, and whilst his Sentence was reading with the Merits of the Cause, should lift up his right Hand, fastened into an Iron Collar, and escape Whipping, because he was a Religious.

Thus we see that this Hermit came off with a lesser Punishment, because by a pious Fraud he intended to promote the Glory of *our Lady of Triumph*. But if they believe that any Thing is done to the Prejudice of the *Roman* Religion,

Religion, altho' the Criminal ſhould deny his Intention, he will find his Judges to be cruel, and void of Mercy, and that they will put him to the Torture at Pleaſure, that by the Severity of his Torments they may force from him a Confeſſion of his Intention.

CHAP. XXIII.

How the INQUISITOR *may be rejected.*

THERE are other Exceptions againſt the Judge himſelf, and thoſe are principally two, the firſt is the Refuſal of the Inquiſitor. This Refuſal is ſometimes reaſonable and juſt, ſometimes frivolous and void. But in this Tribunal many Cauſes, which are ſufficient to ſet aſide other Judges, are not admitted, but only theſe, Enmities, Conſpiracy againſt the Criminals, or ſomething like it, as a grievous Contention, whence Enmity may eaſily ariſe. Leſſer Cauſes are never allowed. Or if the Inquiſitor hath dealt hardly by the Criminal, contrary to the common Courſe of the Law. If the Inquiſitor apprehends that the accuſed Perſon will refuſe him upon this latter Account, he may give a full Deputation to ſome other Perſon before he is acquainted with his being rejected, after which ſuch Rejection is void, and the Deputation made ſtands good. If ſuch Rejection be preſented to the Inquiſitor, he may amend his Miſtake, and reduce the Proceſs to the Condition it was in, before the Injury complained of; and thus the Grievance being removed, the Reaſon of Suſpicion ceaſes, and the Refuſal of the Inquiſitor becomes void. *Direct. p. 3. n. 120.*

If he rejects him as an Enemy, or as a Friend of his Enemy or Accuſer, *Eymerick* is of Opinion, that the Matter muſt be left to Arbitrators to determine it. But now the Reaſon of ſuch Refuſal muſt be remitted to the ſupream Senate of the Inquiſition, that the Affair being ſummarily taken Cogniſance of, the Inquiſitor refuſed may be rejected, or prohibited to judge in that Cauſe, or on the contrary may be commanded to proceed. This is determined by the *Madrid* Inſtruction, *An.* 1561. *c.* 52. *If any one of the Inquiſitors ſhall be refuſed by any Criminal, if ſuch Inquiſitor hath a Colleague on the Spot, he muſt then abſtain from the Cogniſance of ſuch Cauſe, and certify the Senate of the Matter, and in the mean while let his Colleague proceed. If he hath no Colleague, let him in like manner certify the Senate, and not proceed in the Cauſe, 'till the Senate ſhall decree what ought to be done, after having ſeen and examined the Reaſons of the Suſpicion. The ſame muſt be done when all the Inquiſitors are rejected.* *Com. 30.*

CHAP. XXIV.

Of the APPEAL *from the* INQUISITOR.

*n.*121,&c. *com.* 31. ANother Exception against the Judge is, to appeal from the Inquisitor. For altho' the Emperor *Frederick*, in l. *Commissi nobis*, §. 7. decrees, *That all Benefit of Proclamation and Appeal shall be wholly denied to Hereticks, their Receivers and Favourers*, yet sometimes such Appeal is allowed to the Person accused. However, Hereticks are allowed no Appeal from a definitive Sentence, because no one is definitively condemned for Heresy, unless one that hath confessed it, or who hath been legally convicted, according to the Laws of the Inquisition; and from such definitive Sentences there can be no Appeal, in Favour of the Faith, and out of Hatred to Hereticks, least Judgment should be protracted. Cap. *Ut Inquisitionis*, de hæret. l. 6. But an interlocutory Sentence is a quite different Thing, and from this Criminals are allowed to appeal, when they think they have been unjustly dealt with.

*De Cathol. Inst. tit.*6. § 3. *Simancas* confirms the same. "Hereticks can't appeal from a definitive " Sentence, tho' they may from all interlocutory Sentences, if it doth not yet " appear that the Criminals are Hereticks. So that if a Criminal be condemn- " ed to the Torture, or to Purgation, or to be bastinadoed, or to a Fine, " he may appeal, because it doth not appear that he is an Heretick, but only " suspected; nor doth he appeal from the Law, but from the Judges, who " have pronounced Sentence according to their Pleasure."

This Appeal must consist of two Parts. The Grievance which the Criminal affirms he lies under, and the Plea by which such Grievance is proved.

Notab. 18, 19. But here *Bernard Comensis*, in his *Light of the Inquisitors*, observes, Voc. *Appellatio.* "That he who offers a probable Reason, must be prepared to " prove it, to name the Witnesses by which he intends to prove it, and to " have them ready; because otherwise those who make these Exceptions, " would have it in their Power to act fraudulently, which would be the Case " of all who would not have their Exceptions rejected, to give needless Trou- *Notab.* 20. " ble to the Accuser. He adds, that when such an Appeal from an interlo- " cutory Sentence is put in, with the Reason specified, and a Protestation for *Notab.* 15. " the Assigning of other Reasons, such an Appeal cannot be afterwards sup- " ported by such Reasons in Reserve, because the very Protestation it self of " assigning them, would be of no Strength or Obligation. Nor can it be " suppos'd that any one would have the Judge pay any Regard to such Appeal, " unless it appears to the Judge that the Appeal is valid. So that if he doth " not believe it to be good, he need not pay any Regard to it".

Some Grievances are capable of being remedied. As if the Inquisitor should not admit the accused Person to make his Defence, or hath singly, and by himself, without the Bishop or Vicar commanded him to be put to the Question. Other Grievances are irreparable, as if he hath actually made him undergo the Torture. And therefore when the accused Person alledges the Grievances,

Grievances, and again and again demands * Letters of Appeal; the Inquisitor, after ſuch an Appeal is exhibited to him, muſt, within thirty Days, examine the Reaſons of ſuch an Appeal, and if after having taken the Advice of proper Perſons, he finds that he hath unjuſtly aggrieved the accuſed Perſon, he muſt, at the Term aſſigned, amend what hath been amiſs, remedy the Grievances complained of, and bring the Proceſs to its former State, and then proceed as before. For when the Grievance is removed, the Appeal is void.

As to irreparable Grievances, there muſt be a very cautious Procedure, nor muſt any one be put to the Torture without legal Proofs. This is taken Care of by the *Madrid* Inſtruction, *An.* 1561. c. 50. *The Inquiſitors ought eſpecially to conſider, whether the Sentence of putting the Criminal to the Torture be juſtly pronounced, and upon legal Proofs proceeding. And when they doubt of this, let them grant to the Criminal his Appeal when he demands it, becauſe putting him to the Torture is doing him an irreparable Injury, and becauſe an Appeal from the interlocutory Sentence of the Judge is allowed in the Cauſe of Hereſy. But if they have no ſuch Doubt, but rather think the Proofs reſulting from the Proceſs are legal, then let them proceed to the Torture without Delay; becauſe an Appeal, in ſuch Caſe, would be deemed frivolous. But in a doubtful Caſe the Appeal muſt always be allowed, and the Inquiſitors muſt farther conſider the Matter, nor pronounce Sentence of Torture, nor proceed to the Execution of it, till the Cauſe is finiſhed, and the Defences of the Criminal received.* For if there have been ſuch Grievances as theſe, the Proceſs can't be reduced to its former State.

If the Inquiſitor believes that he hath not proceeded unjuſtly, he aſſigns, within thirty Days, to the accuſed Perſon a certain Term, ſpecifying particularly the Place, Day, and Hour, for his having given him, and receiving from the Inquiſitor ſuch Letters of Appeal, as the Inquiſitor ſhall determine to give him. If he finds the Cauſes of the Appeal to be falſe or frivolous, or void, and that the Appellant only endeavours to eſcape Judgment, the Inquiſitor gives him what they call negative Letters, or Letters of Refutation, in which he refutes all the Reaſons alledged in Support of ſuch Grievances, and ſays, that he doth not admit, nor intend to admit the Appeal put in, and that he pays no Regard to it, nor ever intends it. This is the Anſwer he gives to him who appeals unjuſtly, which he commands to be inſerted directly and immediately after the Appeal preſented to him, and then delivers it to the Notary who preſented it. But if he finds the Grievances to be real, and unjuſtly laid on him, and to be irreparable; or if he is in doubt concerning theſe Things, he gives the Appellant what they call affirmative Letters, or Letters of *Reverence*, in which he ſays he hath proceeded juſtly; and after running thro' the ſeveral Cauſes of the Appeal, and anſwering them, at length concludes, that he hath given no Cauſe of Appeal. But that nevertheleſs for the *Reverence* he bears to the Apoſtolick See, which is appealed to, he allows the Appeal,

* *Apoſtoli.* Thoſe *Apoſtoli* were dimiſſory Letters, granted by Eccleſiaſtical Officials and Judges, to thoſe who appealed to the Pope at *Rome.*

and remits the whole Affair to the Pope, and aſſigns to the Appellant a certain Term, within which he muſt appear at the Court of *Rome* before the Pope, with the Proceſſes incloſed and ſealed up, to be delivered to him by the Inquiſitor, upon giving good Security, or under a ſafe and ſtrict Guard. This is the Anſwer he gives to him, who appeals for affirmative Letters, which he commands to be immediately inſerted after the Appeal put in, and thus delivers it to the Notary who preſented it.

If the Inquiſitor gives the Appellant negative Letters, he continues his Proceſs againſt him, to let him know, that he doth not ceaſe to be his Judge, till he is prohibited to proceed by that Judge to whom the Appeal is made. But yet from the Hour of the Appeal, he can do nothing new againſt the Appellant, till he hath delivered to him the negative Letters. But if he grants him affirmative or reverential Letters, he immediately ceaſes to be his Judge, and can take no farther Cognizance of the Cauſe, unleſs it be remitted to him by the Pope. He may however proceed againſt the Appellant in any other Cauſe, *viz.* if after having given him ſuch Letters of Reverence, he is informed againſt before the Inquiſitor for other Hereſies and Crimes.

But now the inferior Inquiſitors are not allowed to uſe this Power. In *Spain* the *Madrid* Inſtruction, *An.* 1561. *c.* 51. gives this Caution in the Affair. *If the Inquiſitors think that an Appeal is to be allowed in any Caſe, in the criminal Cauſes of ſuch Criminals as are impriſoned, they muſt ſend the Proceſſes to the Senate of the Inquiſition, without certifying the Criminals themſelves of it, and with ſuch Caution and Secreſy, that no one without the Priſon may know it; becauſe, if the Senate ſhould think otherwiſe in any particular Cauſe, it may give Order, and take the neceſſary Care about it.* But in other Provinces, and eſpecially in *Italy*, where the Appeal is admitted, the Inquiſitors conſult the Senate of the general *Roman* Inquiſition for the whole Chriſtian Common-wealth, the Cauſe being briefly and ſummarily reported to them; and if the Senate thinks fit that the Criminals ſhould be ſent to *Rome*, it muſt be done, and the Inquiſitors muſt ſend them there under good Security and ſafe Cuſtody.

CHAP. XXV.

How they proceed againſt ſuch who make their Eſcape.

Direct. p. 3. *n.* 130. *Com.* 33.

THUS have we given an Account of the Method of proceeding againſt a Criminal actually in Jayl. But if he abſent, or hath made his Eſcape, the Proceſs is formed againſt him after this manner. When any one is informed againſt before the Inquiſitor for being infected with Hereſy, and ſuch Perſon is not preſent in the Place where the Inquiſitor lives, but dwells in ſome other Place, within the Bounds of the Inquiſitor's Juriſdiction, he is ſaid to be abſent, but not a Fugitive. When there is any Apprehenſion of his

his Eſcape, tho' they determine that they may omit the making any verbal Citation, and proceed immediately to apprehend him, yet ſometimes ſuch abſent Perſon is ſummoned to appear on a certain Day and Place, to anſwer to ſuch Matters whereof he is accuſed. But becauſe by ſuch a Citation the Criminal may *Com.* 131. be induced to meditate his Eſcape, others adviſe, that no particular Cauſe ſhould be mention'd in this Citation, but that he ſhould be only commanded in general to appear before the Inquiſitors, to inform them of certain Matters. Likewiſe the Inquiſitor writes to the Rector of the Church, to which the Criminal is ſubject, commanding him to ſummon the Criminal before him to anſwer concerning the Faith, and to declare the Truth of himſelf and others as to the Crime of Hereſy.

This ſeems to be taken from the Council of *Biterre*, c. 3. *Let the Clergy and* 132. *Laity of that Place, which the Citation belongs to, be called together by ſome Eccleſiaſtical Perſon, to whom you ſhall commit this Affair by your Letters Patents, who, in Token of his having received the Command, muſt add his Seal to the ſaid Letters, and write back by his own Letters Patents, ſigned with his Seal, how, before whom, and when he diſcharged the Order given him.*

If the abſent Perſon be wholly out of the Juriſdiction of the Inquiſitor, the Inquiſitor examines the Witneſſes privately, that it may not come to the Knowledge of the abſent accuſed Perſon that Inquiſition is made againſt him. Then the Inquiſitor farther inquires, whether he will return into his Juriſdiction; if 'tis probable he will, he waits a Year or more for his Return. If 'tis probable he will not, but that he hath changed his Place of abode, 'tis at the Pleaſure of the Inquiſitor either to require the Inquiſitor or Dioceſan, whoſe Juriſdiction the Criminal is under, to ſend him to him, or elſe to tranſmit him the whole Proceſs, that he may do what he thinks proper. In *Portugal* Perſons accuſed are never turned over to another Place, but puniſhed in the Diſtrict where they are taken, whether the Crimes and Informations againſt the Criminals are ſent by the Inquiſitors of other Diſtricts.

But when any one knows that Inquiſition is made againſt him, or is actually 133. impriſoned, and yet makes his Eſcape, to avoid the Hands of the Inquiſitors, he is ſaid to be a Fugitive. In this Caſe the Inquiſitor firſt inquires diligently, and without Noiſe, to what Place he is fled, and where he hath concealed himſelf; and if he finds out the Place, orders him to be taken up, and ſent back to him. If it be within his own Juriſdiction, he may require the temporal Lord to apprehend him, and conduct him within his Diſtrict. Yea, he may require the ſame from any other Lord, whilſt he hath him in Poſſeſſion. If he be without his Juriſdiction, he may nevertheleſs proceed againſt him, and require the Inquiſitor, in whoſe Juriſdiction he is, to cauſe him to be taken up, and ſent back to him, or ſend him his Proceſs, that he may do what Juſtice ſhall require. Thus the Council of *Tholouſe* heretofore ordered, *cap.* 8. *We ordain alſo, that any one may make Inquiſition, and apprehend Hereticks in another's Province, and let the Ballives of ſuch Places be obliged to grant them Aſſiſtance and Favour; ſo that the Ballive of the King may do thus in the Dominions of the Earl of* Tholouſe *and others, and the Earl of* Tholouſe *and others in the*

Dominions

Dominions of the King. The first Instruction of *Seville, An.* 1484. *c.* 21. hath ordained Punishments against such temporal Lords, as do not obey the Inquisitors. *Because the most serene Kings have commanded, and Reason requires it, that Inquisition should be equally made for the Crime of Heresy, as well in the Lands of Nobles, as in their own; therefore the Inquisitors who now are, or hereafter shall be, must ordain in their Dioceses, that they may freely proceed to make Inquisition in the said Countries. But if the Nobles shall not obey the Commands of the Inquisitors, they must proceed against them for Rebellion and Contumacy, and inflict on them all the Censures and Punishments appointed by the Law.* But when Criminals are sent from one Place to another, it must be at their own Expence if they have Effects, according to the Decree of the *Madrid* Instruction, *An.* 1561. *c.* 9. The same is alſo observed in *Portugal.*

135. If the Inquisitor cannot find out the Place to which the Criminal is fled, he cites him personally in the Cathedral Church of that Diocese to whom he belongs, and in the Parish Church of that City, where he dwelt before his Escape, and finally in his own proper House in which he commonly lived, personally to appear within a certain Term before the Inquisitor, to answer concerning the Faith and Articles of Faith, under this Penalty, that if he doth not appear within the Term assigned him, he shall be excommunicated with the greater Excommunication.

Thus the Council of *Biterre* prescribes, cap. 14. *As to those who are absent thro' Contumacy, cause them to be solemnly cited in their Parish or Cathedral Church, and in the Places where they dwell, or have been used to dwell. And having thus put forth legal Edicts against them, and after having waited a proper Time, and having carefully considered and discussed the Acts, and having receiv'd the Advice of such Prelates, in such Matters, as you have thought fit to consult them about, under their Seal, proceed to their Condemnation, according to the Exigency of the Crimes, the Presence of God and his Gospels supplying their Absence. And if any of them are afterwards willing to return and obey, receive from them, and in general from all such who have been guilty of Contumacy and Disobedience, or of whose Escape you have Reason to be apprehensive, good Security and Bail, or cause them to be confined, if you think it more expedient.*

But in the first Council of the Prelates, probably at *Tholouse*, 'tis thus decreed of such absent Persons. *But if there are any Persons criminal, or suspected, belonging to your Inquisition, who are not present, or have not been so, and who do not take Care to appear or excuse themselves, within a competent Term peremptorily by you assigned them, and published in the Churches, proceed, without Doubt, against them, as against Impenitents. And 'tis our Sense, that all such Persons belong to your Inquisition, who either have offended within the Bounds of the said Inquisition, or have a Dwelling there, or had when the Inquisition was first made; or who have resided there upon account of any Office publick or private; or who having no fixed Abode, shall be found there when cited by you, whether they have any Security or not, if you have begun to make Inquisition against them, or have enjoined them their Purgation. For against such Impenients, or Absenters, you may and ought to proceed; excepting only, if other Inquisitors have begun to proceed against them, upon account*

count of some greater or lesser Crime committed elsewhere, or by Reason of their dwelling under their Jurisdiction, or for any of the aforesaid Causes. For as the Inquisition is carried on, under God, in different Places, and by different Inquisitors, 'tis more wholesome and safe, that every Criminal in the Place where he hath offended, should stand accountable to that Inquisitor wholly and only, by whom he was first begun with, for any of the aforesaid Causes, without Deceit, and Danger of the Affair and of Souls. But so however, that the other Inquisitors shall inquire out whatever they can know concerning him, and write an Account hereof to those Inquisitors to whom the said Criminal stands accountable. For thus you shall all fight as one Man, and overcome.

But that such Escape may not go unpunished, in the Person who being in Custody for Heresy, breaks out of Jayl, 'tis a Matter of Custom rather than Law, especially in *Spain*, that if he who makes his Escape, be of any considerable Reputation, and apprehended again, for Instance, a Nobleman, Doctor, religious Person, or otherwise a Citizen of Account, he shall be kept in stricter Custody, and punished more severely. But if he is a mean Person, he is publickly whipped, and his Cause is to remain, and be carried on in the State it was before, but he is not to be treated for his Escape as one convicted of Heresy; because the breaking out of Jayl, or an Escape, hath nothing common with Heresy, and 'tis rather to be presumed that he fled because tired out with his Imprisonment, or thro' Fear of false Witnesses, or the Severity of his Torments, rather than from any Error of his Understanding. However, *Zanchinus* says, that a Prisoner who escapes, or attempts to break Prison, ought to be esteemed as a Convict, and condemned as an Heretick. *Simancas* on the other hand says, this cannot be proved by common Law, and tho' it be more plainly ordained by the royal Laws, yet in his Judgment 'tis extreamly severe. 'Tis usual also with the Inquisitors, as soon as ever they understand the Criminals have escaped, to write to the neighbouring Inquisitors or Bishops, or other Persons whom they judge proper, to find out whether the Person escaped hath fled to their City, that they may take Care to apprehend him, adding in their Letter his Name, Surname, Country, Stature, Colour, and other Circumstances, by which the fugitive Criminal may be easily known.

Pegna *in Direct. p.* 3. *com.* 35.

c. 10. § 3.

tit. 16. § 23.

But if such Fugitive shall be found guilty of Heresy, not only by Witnesses, but by his own Confession, and hath declared himself ready to abjure it, and yet escapes before his Abjuration, especially if he be a religious Person, who hath himself preached Heresies, he is cited personally to appear before the Inquisitor at a certain Place, and within a certain Day, to abjure his Heresy, and threatned with Excommunication unless he obeys. And if with an obstinate Mind he lies under the Sentence of Excommunication for a Year, and doth not make his Abjuration, he is to be judged as an obstinate Heretick, and delivered over to the secular Court. If being thus cited they nevertheless refuse to appear, but suffer themselves to continue under Excommunication, they are declared publickly to be excommunicated in all those Churches and Places in which they have been cited, and all are commanded under

n. 136.

under the Penalty of Excommunication, to avoid them as excommunicated Perſons, and to diſcover them to the Inquiſition, if they know where they have concealed themſelves. Thus the Council of *Tholouſe* hath decreed, *cap.* 2. *And if they find any Hereticks, their Believers, Favourers, and Receivers, or Abettors, let them take due Care that they don't eſcape, and be ſure to diſcover them to the Archbiſhop, or Biſhop, or Lords of the Places, or their Ballives, with all Speed, that they may receive their due Puniſhment. Conrad Brunus* gives a fuller Account of this Matter. "He is guilty of Contumacy, who being cited before a Judge by "three Edicts, or by one peremptory one, once for all, will not appear be-"fore the Judge by whom he is cited, and that in full Proceſs. He may be "proceeded againſt either of theſe ways. He may be either pronounced "guilty of Contumacy, or elſe legal Proofs may be taken to make out "his Crime. In the former Caſe the Perſon cited, and guilty of Obſtinacy, is "excommunicated, and if he lies under it with an obſtinate Mind a whole "Year, he is condemned as an Heretick, *&c.* In the other Caſe, the Crime "of Hereſy is to be proved againſt him, by Witneſſes, Writings, compa-"ring of Letters and Likeneſs of Hand, and other Evidences, which being "proved, he ſhall be condemned, together with the Books and Writings con-"taining ſuch Errors and Hereſies. Moreover, an abſent Heretick ſhall be "declared and pronounced an Heretick, and be excluded from Eccleſiaſtical "Communion, and deprived of all Eccleſiaſtical Dignities and Orders.

CHAP. XXVI.

How the PROCESS *is ended in the* INQUISITION.

AFter the Proceſs is thus begun and carried on, it remains that we now explain how it is finiſhed.

When all the Defences are exhibited, the Criminal preſſes to have his Cauſe diſpatched. This may and muſt be done either by the impriſoned Criminal himſelf, or by his Procurator or Advocate, and that either by ſpeaking, or by preſenting a ſhort Petition.

Simanc. t.44.§.26. "After this the Judges with their Aſſeſſors and Counſellors, having examined "the Proofs, ſhall conſider, and ſhall proceed according to the Merits of the "Cauſes to paſs Sentences, or to * Interlocutories, and abſolve the Innocent, "and leave the Obſtinate to the ſecular Judge, and condemn ſuch as are "ſuſpected, according to the Nature of their Crimes, Perſons and Proofs, "either to the Queſtion, or Abjuration, or Purgation, or Impriſonment, "or Baniſhment, or to a Fine; or ſhall injoin them to purge and redeem their "Fault by Faſtings, Prayers and Alms.

* *Interlocutio* is not a definitive Sentence, but the Determination of ſome ſmaller Matter in a Cauſe, till the principal Cauſe is fully diſcuſſed.

"The

" The Judges muſt alſo be very careful, generally to interrogate the Cri- §. 27.
" minals concerning their Accomplices, and of all others from whom they " have learnt Hereſies, and who they know to be, or to have been Hereticks. " And if they diſcover any Thing of theſe Matters, it muſt be written down " in the Books of the Inquiſition.

" 'Tis farther provided in a certain Chapter of the third Inſtruction, that §. 30.
" all the Inquiſitors of *Spain* ſhall obſerve the ſame Order in proceeding a- " gainſt Hereticks and ſuſpected Perſons, and as this had not been uſual, we " drew up, ſays *Simancas*, eighty Heads, by which the Form of Proceeding " might be always uniform and conſiſtent with it ſelf, which Heads are to be " obſerved by all Inquiſitors, according as 'tis ordered by the general Edict " of the Inquiſitor, printed in the Year 1561.

" Finally, There are ſeveral Heads of Inſtruction which provide, that §. 31.
" theſe Cauſes ſhall be carried on with as much Brevity as poſſible, and not " be deferred or ſuſpended thro' any Expectation of future Proofs, becauſe " probably there may never happen any ſuch, and in the mean while the Cri- " minal will be oppreſſed, and his Effects be diſſipated and waſted. 3 *Inſtruct.* " *Valdolit.* cap. 2, 3. 4 *Inſtruct. Tolet.* c. 6. 5 *Inſtruct. Hiſpal.* c. 6.

" For which Reaſons this one Thing is to be conſider'd and avoided, tho' §. 32.
" many Inquiſitors have often practiſed it, *viz.* the deferring and ſuſpending " the Cauſes of many Perſons which have been a long while concluded, that " they may puniſh ſeveral Criminals together. The Conſequence of this is, " that ſuch Criminals, who have fully confeſſed their Errors, are made un- " righteouſly to ſuffer the Puniſhment of remaining in Jayl, and of pining " away thro' Naſtineſs, Infection and long Confinement, and which is much " more grievous and dangerous, occaſions them to retract the Confeſſions " they have rightly made, and never more to think of them, and ſometimes " to deſpair and die. 'Tis therefore much more agreeable to Piety and Mer- " cy, immediately to reconcile ſuch to the Church, who have made a full " Confeſſion, which may be done with Solemnity enough upon ſome Holy- " day within the Church, unleſs there be ſome juſt Reaſon to the con- " trary."

When the Opinions of the Counſellors are heard, and the Sentence given, the Criminal is ſummoned to come and hear his Sentence. 'Tis not determined by any particular Law by what Officer he is to be cited, and therefore the Cuſtom of each Inquiſition is to be obſerved. Without ſuch Citation there can be no Sentence. This *Pegna* gives us a large Account of in his Notes upon *the Light of the Inquiſitors.*

" The judiciary Method is to be fully obſerved in almoſt all Cauſes, other- *In voce*
" wiſe the Proceſs is rendred void. But this is particular in the Cauſes of he- *Ordo juris.*
" retical Pravity, that in order to their being more quickly diſpatched, and " that ſuch heinous Offences may be more ſpeedily puniſhed, the full " judiciary Method need not be obſerved. So that they proceed herein " ſimply, and plainly, and without the Noiſe and Appearance of Judgment. " Neither is there any Room here for the Conteſtation of the Suit, which

" consists in debating on the principal Matter on one Side, and the other before the Judge, and the putting in Answers either by denying or confessing.

" But if any Thing be omitted, which is essential to such Trials, such as the Citation, the Term, and the receiving the Witnesses after Citation, and if the Sentences be not given in Writing, in proper Place and Time, with the usual Solemnities, all is void. And this is true also in the Crime of Heresy; for by omitting any Acts which are essential, the Process even in Causes of the Faith would be destroyed.

Simancas hath given us a brief Account of the Manner of pronouncing Sentences, which I shall here insert, because it fully represents to us the Method which is usually observed in these Cases.

Simanc. t. 60. §. 1. " All the Judges are obliged to read the Sentences out of a little Book or Brief, and must do it themselves, and not by others, unless they are illustrious Persons, or in some Post of great Dignity. And therefore when the Inquisitors have a Cause before them of more than ordinary Consequence, they may pronounce Sentence by others, which must be done before the Clergy and People, for Instruction, Warning and Terror. And this was formerly the Custom in *Spain*.

§. 2. " The Form of a Sentence of Condemnation is this. First the Nature of the Doctrine or Opinions asserted by the Criminal himself is declared; after this the diligent Inquiry that hath been made into his Crimes, the Citations, Admonitions, Confessions, legal Proofs, the Times given for Repentance, his Mind hardned in his Errors, his obstinate persisting in them, and all other Things, which may tend to shew that the Process which hath been carried on and observed against him hath been just, are enumerated. All which Particulars being laid down in their Order, then follows the Sentence it self, formed as the Nature of the Crime requires, according to the Ecclesiastical Rules, containing the Condemnation of the Opinions, Authors, Books and other Matters.

§. 3. " Besides, in the Sentence of Condemnation, the Time must be declared from which the Criminal fell into Heresy, that by a bare Inspection the Judge of the forfeited Effects may know from what Day his Effects are to be confiscated, which is provided by a certain Letter of the Inquisitor General, for this Reason, that there may be no Need of looking over the whole Process on this Account, in which there are several Things which ought to be kept secret. It is also provided by another Letter of the Senate, that when the Judges and the Learned are deliberating about the Sentence to be pronounced, they shall fix the Time of the Heresy. This Letter is printed amongst the Instructions, and dated from *Granada*, *An.* 1499.

§. 5. " The Sentence, by which Persons lapsed into Heresy, are re-incorporated into the Church, is in this Form. They are declared to have been Hereticks or Apostates, and to have incurred the Penalties established by Law. But inasmuch as they say they will return to the Church with a

" pure

"pure Heart, and Faith unfeigned, the Judges abſolve them from Excom-
"munication, and reconcile them to the Church, if it be true what they ſay,
"that they are unfeignedly and truly converted. 1 *Inſtruct. Hiſpal.* c. 10.

"But in a Sentence of Condemnation the Criminal muſt be declared an ob- §. 6.
"ſtinate Heretick, and his Effects be confiſcated, and his Opinions and Wri-
"tings muſt be condemned and anathematiſed, and he muſt be moreover de-
"prived of all Eccleſiaſtical Hereſies, publick Offices, and Honours what-
"ſoever, and finally be deliver'd over to the ſecular Court, to receive his due
"Puniſhment.

"But if any one, after Sentence of Reconciliation, ſhall be convicted of §. 8.
"having concealed any Hereſies or Hereticks, or to have boaſted that he
"was innocent, and unjuſtly condemned, he muſt be examined again as an
"Impenitent; nor will the Sentence by which he was reconciled to the Church,
"be of any Service to him, becauſe it appears by this very Thing, that it
"was pronounced upon a feigned Confeſſion and pretended Converſion. Be-
"ſides, if any new Proof ariſes againſt the Convert, his Cauſe muſt be tried
"over again, notwithſtanding the Sentence of Re-incorporation or Abſolu-
"tion, or Purgation, or Queſtion pronounced before in the ſame Cauſe.
"1 *Inſtruct. Hiſpal.* c. 13. 3 *Inſtruct. Valdolit.* c. 3.

"When the Inquiſitors differ, and the Cauſe is determined by the Senate of §. 10.
"the holy Inquiſition, all muſt ſubſcribe to the Sentence, even they who
"were of the contrary or different Opinion. If there ſhould happen to be in
"any Province three Inquiſitors, and one agrees with the Biſhop or his Vicar,
"and the two others differ from them, the Cauſe muſt be remitted to the
"Senate. But if two agree with the ordinary Judge, the Sentence muſt be
"immediately pronounced, without any Mention made of the Difference
"about pronouncing ſuch Sentence. All theſe Things are more fully contain-
"ed in ſeveral Letters of the Senate.

"It is alſo the Cuſtom, that when the Sentences againſt Hereticks are pub- §. 11.
"lickly pronounced, to read thoſe laſt of all, by which the Obſtinate and
"Impenitent are condemned; and after they have read over a ſummary
"Account of the Acts of the Proceſs, to make a Pauſe, and admoniſh the
"Hereticks before all the People, that they would at length be converted,
"becauſe as yet the Time of Mercy is not out. If they ſay they will be
"converted, they are to be carried back to Jayl, and admitted to Penance
"if converted. But if they perſiſt in their Obſtinacy and Impenitence, their
"Sentence muſt be read, after which they muſt be immediately ſeized on
"by the ſecular Judge, and being condemned to the Flames, be directly
"burnt. *Lutherans* are dealt with in a different Manner, becauſe they are
"the worſt, and the moſt pernicious of all Hereticks, and very ſeldom truly
"converted; on which Accounts they are treated with greater Severity.

"In this Order the Sentences were pronounced in *Spain* againſt Hereticks §. 12.
"deſcending from *Jews* and *Moors*, becauſe they could hurt only themſelves,
"or thoſe of the ſame Race with themſelves; for during the Space of 800
"Years, none of the noble or antient Chriſtians were infected by them. But

" after that the pernicious Hereticks of our Time are found to have infected " not only antient, but even some noble Christians with their Impiety, they " are not admitted to be reconciled at the last Moment when Sentence is to " be pronounced, because then they ask Pardon rather thro' Fear of immedi- " ate Death, than willingly and from the Heart, and being thus but feigned " Converts, may do a great deal of Mischief.

CHAP. XXVII.

How the PROCESS *is ended by Absolution.*

HAving said these Things in general, it now remains, that we distinctly explain how every Process is finished.

The first Manner of ending a Process in Causes of the Faith, is by Absolution, when the Criminal is not found guilty. And this may happen two ways, either because he was really found innocent, the Informers and Witnesses being found guilty of Falshood, or because the Accusation against him was not fully proved.

If he is found innocent after the first Manner, especially if the Witnesses have retracted their Depositions, then he may be pronounced innocent. And *l. 2. t. 3. c. 1. n. 12.* in this Case, as *Paramus* tells us, the accused Person, whose Innocence appears, rides upon an Horse, amidst the Applause of the People, crowned with Laurel and Palm-Branches, after the Manner of a Triumph.

Direct. p. 3. n. 141. If he is not found guilty, after the second Manner, because he is not convicted neither by his own Confession, nor the Evidence of Fact, nor by the legal producing of Witnesses, and is not otherwise found to be suspected, nor publickly defamed for the aforesaid Crime, he is absolved by the Bishop and Inquisitor together, or by either of them separately.

Com. 121. For that the Prisoner cannot be condemned in such a Case, is expresly determined by the Council of *Biterre*, c. 11. and by that of *Narbonne*, c. 23. *But proceed to the Condemnation of no Person, without his own Confession, or clear and open Proofs; for 'tis better to suffer a Crime to go unpunished, than to condemn the Innocent.*

In such a Sentence of Absolution there is no mention made of the Heresies or Crimes, for which such Person is accused or informed against, because they are not proved. This hath been provided for by the *Madrid* Instruction, *An.* 1561. *c.* 62. whether it be pronounced upon a Person dead or alive. *When he who defends the Memory and Reputation of a Person deceased, hath legally maintained his Cause, and the deceased Person is to be absolved from any farther Trial, his Sentence shall be pronounced in the publick Act, because the Edicts were published against him. However, in this Case, the Statue of such deceased Person who is absolved in the publick Act, shall not be brought forth, nor shall the particular Errors*

of which he was accused, be recited, because they are not proved. The same must be observed with respect to those, who are personally apprehended and accused, and absolved from farther Trial, if they shall demand it.

Not that they are wont to pronounce such Criminal free from Heresy, but only to declare that nothing is legally done against him, on Account of which he may, or ought to be pronounced an Heretick, or any ways be suspected of heretical Pravity; and that therefore he is wholly released from his present Trial, Inquisition and Judgment. But they carefully avoid putting into his Sentence that he was innocent, or not guilty, that if so be he should afterwards be informed against, and the Crime legally proved, he may be condemned notwithstanding the aforesaid Sentence of Absolution. But if it should happen that any one is pronounced wholly innocent, and is afterwards accused of the same Crime, their Doctrine is, that notwithstanding his Sentence of Absolution, he may be again judged and condemned; because, in this Crime no Sentences whatsoever can ever be accounted as an adjudged Case, in Favour of the Faith. This *Pius* V. hath determined by a certain Rescript, which I shall here give intire.

Of our own proper Motion, &c.

Pope Pius V.

AMongst the manifold Cares which continually imploy our Mind, this, as it ought to be, is the Principal, that the Church of God committed to us from on high, may safely carry on its Warfare, and as a Ship in a calm Sea, when the tempestuous Waves and Storms are all assuaged, may securely sail, and come to the desired Port of Safety, by purging out of it, yea as far as we can, by wholly exterminating all Heresies, and the evil Principles of erroneous Opinions. Since therefore, even when in a lower Station we managed the Affairs of the most holy Office of the Roman *and Universal Inquisition against heretical Pravity, we have at length by long Use, and that Experience which leads into the true Understanding of Things, known, that many Persons accused, and processed in the aforesaid most holy Office, or elsewhere, before the Ordinaries of Places, and the Inquisitors of heretical Pravity, and against whom Inquisition hath been made on the Account of heretical Pravity, have, by causing false Witnesses to be examined in their Defence, and by the Assistance of the Endeavours and Evidence of Compurgators, not at all informed of their Life and Doctrine, and by deluding and deceiving with divers other unlawful Methods, and the Invention of deceitful Excuses and Wickednesses, the aforesaid holy Office of the most holy Inquisition, and the other Judges, and even the* Roman *Pontiffs themselves, obtained and extorted many definitive Sentences of Absolution from the aforesaid Processes and Inquisitors, as tho' they were innocent, and also upon a preceding canonical Purgation of their attested, good, and Catholick Faith, Life and Doctrine, declaratory Sentences or Decrees from the said most holy Office, and other Ordinaries of Places, or Delegates, and even from the* Roman *Pontiffs our Predecessors; which Sentences and Decrees the aforesaid* Roman *Pontiffs have confirmed, partly by injoining perpetual Silence, and prohibiting the said most holy Office, or other Inquisitors, from proceeding to any farther Matters, and partly by removing Causes only before the* Roman *Pontiff, to whose Protection the said Office was subject, and by other De-*

rogatories

rogatories of Derogatories, and by most effectual Clauses, even such as made the Processes void, and by other Decrees even in Form of Grace, by several of their own proper Motions, and by several Letters expedited under the Seal or Fisher's Ring, issuing in consistory, or consistorially; from whence it came to pass that the aforesaid inquisited Criminals, under the Veil and Protection of the aforesaid declaratory Sentences, and Letters Apostolick, and especially confiding in the Strength of the inhibitory Clause made against the Inquisitors, have by secretly and sometimes openly persevering in their old Errors against the Catholick Faith, never truly returned to the Bosom of the Church, but by conversing securely with others, and as tho' they were Catholicks, have corrupted and infected the Minds of others, and have been enabled easily to seduce them into their heretical Opinions, to the no small Scandal and Prejudice of the whole Christian Common-wealth, and to the Destruction and Loss of the Souls of the aforesaid accused Persons: We therefore, being willing to obviate so pernicious and infectious a Scandal, and to consult and provide for the Salvation of the said Souls, and to remove all Doubt and Altercation from Lawyers, and all Impediments and Hindrances, by which the holy Inquisition of heretical Pravity, may by any Manner or Means be obstructed or hindred, from a like Motion, and of our certain Knowledge, and by the Fulness of our Apostolick Power, reducing, in the first Place, all and singular such Letters Apostolick whatsoever, under any Form of Words whatsoever, even in the aforesaid, or any other Causes of Heresy, even such as were issued out of proper Motion, &c. *and also consistorially,* &c. *or any other way howsoever, as likewise the above-mentioned Schedules of proper Motions, and any others, to Law and Justice, and the Bounds of Law, and wholly and perpetually revoking the Inhibitions by the Fiscal of the abovesaid holy Office of the Inquisition, and other ordinary and delegated Judges, against the aforesaid Letters, and also the Derogatories of Derogatories, and all other Clauses whatsoever that open their Mouth, and as far as they are contrary to the Disposition of Jurisdiction, or the Style of the said Office, do, by this our perpetual and universal Constitution, to be in Force for ever, declare, decree, appoint and ordain, by our Apostolick Authority, that all and singular Sentences of Absolution whatsoever, even upon the Head of asserted Innocence, or declaratory Sentences, under any Form of Words, even tho' canonical Purgation may have preceded, and tho' such Sentences be definitive, and all Decrees pronounced in Favour of the said Criminals and accused Persons, by the aforesaid most holy Office, and other ordinary and delegated Judges, and even by the* Roman *Pontiffs, or hereafter to be pronounced even by us, and our Successors the* Roman *Pontiffs, for the Time being, never have, and for the future never shall be esteemed as an adjudged Case; but that all the aforesaid Sentences and Decrees whatsoever, even tho' by Letters Apostolick, or in Form of Grace, or several times repeated, or tho' issuing from, confirmed, or to be confirmed by several* Roman *Pontiffs, together with the aforesaid, or any others whatsoever, even Derogatories of Derogatories, and even such as make void, and all other Clauses and Decrees, as also Inhibitions, and even canonical Sanctions, (the Tenors of all and singular of which, and of the other Premisses, and such as follow them, we order to be looked upon as expressed, and wholly inserted, as tho' they were inserted Word for Word in these Presents) to the contrary notwithstanding, we do, by the same Apostolick Authority, will and command, that it shall and may be lawful for our aforesaid holy Office of the holy Inquisition, and our beloved Sons,*

who

who now are, or ſhall be, for the Time being, Cardinals of the holy Roman *Church, Inquiſitors of heretical Pravity, and deputed for the ſaid Office, now, or for the Time being, againſt the ſaid accuſed Criminals under Inquiſition, even tho' they have been, or are Biſhops, Arch-Biſhops, Patriarchs, Primates, Cardinals of the ſaid holy* Roman *Church, Legates* a latere, *Counts, Barons, Marquiſſes, Dukes, Kings and Emperors, to make again Inquiſition and Proceſs, as well concerning the old as new Witneſſes, in the ſame Articles received, or to be received, and other Arguments, Proofs and Evidences, according to the Privileges in any manner granted and given, or hereafter reſpectively to be given and granted to the ſame Cardinals Inquiſitors by us, or any of our Predeceſſors, and Succeſſors, the* Roman *Pontiffs for the Time being, and the Apoſtolick See, even in and thro' all Matters, as tho' the aforeſaid Sentences, Decrees, and Letters Apoſtolick, and even canonical Purgations had never been made in Favour of the aforeſaid accuſed Criminals under Inquiſition, whether Biſhops, Arch-Biſhops, Patriarchs, Primates, Cardinals, Legates, Counts, Barons, Marquiſſes, Dukes, Kings, and Emperors, eſpecially when there ariſe new Proofs of the ſame, or another Species of Hereſy, even reſpecting the Time paſt, or where it appears by certain Proofs, that the Criminal under Inquiſition had been formerly abſolved by unlawful Methods: Granting alſo to the ſaid Cardinals Inquiſitors, and deputed Perſons, now or hereafter, for the ſaid moſt holy Office of the Inquiſition, full, free, ample, and abſolute Faculty, Power and Authority, of reviſing ſuch Cauſes, tho' decided by Authority of the Oecumenical Univerſal Council of* Trent, *and of re-aſſuming them in the State and Terms in which they ſhall any ways be found to have been previous to the aforeſaid Sentences, and Decrees, and even canonical Purgations, and of bringing them to their proper Concluſions, even as it is, and may be, and uſually hath been done by the ſaid Cardinals Inquiſitors, according to their Privileges in all other depending and undecided Cauſes,* &c. An. 1567. *and firſt Year of our Pontificate.*

In the ſame Manner alſo they are abſolved who are accuſed of receiving, defending, or otherwiſe favouring Hereticks or heretical Pravity, when nothing is legally granted againſt them.

CHAP. XXVIII.

How the PROCESS *againſt a Perſon defamed for Hereſy is ended by Canonical Purgation.*

WHEN the Perſon accuſed is only found to be defamed for Hereſy, *n.* 144.
in any Village, City, or Province, and is not convicted either by *com.* 38.
his own Confeſſion, or the Evidence of the Fact, or by the legal producing of Witneſſes, or any other legal Proofs, and Infamy only is preciſely againſt him, he is not abſolved, but he is injoined canonical Purgation by the Biſhop and Inquiſitor together, and not ſeparately.

"There

Simanc. t. 56. §. 1. "There is frequent Mention made of canonical Purgation, in the Papal "Law, and tho' in all other Crimes 'tis grown into Disuse, yet in the Crime "of Heresy 'tis now practised, and is very common in the sacred Court of "the Inquisitors. For which Reason *Godofred* praises *Spain* in these Words. "Persons suspected of Heresy are punished in the most religious Kingdoms "of *Spain*, triumphing especially in these Times, and worthy of singular "Praise, because it suffers not only no real Heresy, but even no Suspicion of "Heresy to remain even a Moment without a suitable Censure."

In the Cause of Canonical Purgation they proceed according to this Manner and Custom. The Inquisitors, Bishop, or his Vicar and Assessors, or the learned Council meet together, and after discussing the Proofs, condemn the Criminal to purge himself by certain Witnesses. The Number of these Witnesses is arbitrary, and not precisely determined. Sometimes two Abbots were deputed. Cap. *in Juventute* de purgat. Canon. Sometimes there have been fourteen Compurgators. Eod. tit. Cap. *Inter sollicitudines*. In the same Place there are twelve named, and in the Chapter *Ex tuarum*, seven or five are prescribed. The Judge is to consider the Nature of the Person, Crime and Infamy, and then to order the Number of the Compurgators to be greater or less. For as to Persons of greater Power, or of more Note, or who labour under greater Infamy, more are required, than from other mean and unknown Persons, who can't so easily procure a large Number of Compurgators, to purge themselves, because all Compurgators must come in voluntarily, and can't be compelled as other Witnesses. But yet ordinarily the Number is determined, that every Criminal shall purge himself with about seven Witnesses, with this Addition, that if he fails in one, two, three or more, he shall be looked on as fully convicted of the Crime.

Lucern. Inquis. in voce *Purgatio Canonica.*

Simanc. t. 56. §. 15. "Formerly, he who was defective in only one Expurgator, was condemned "as a Convict, because he was not purged by all. But when that was found "to be very dangerous, and, as it might be said, that he was purged by all "who was purged by the greater Part, it was agreed on, that at the same "time when the Number of Purgators were agreed on, it should be deter-"mined, that if any one failed either of one, two or three, or more of them, "he should be esteem'd as an Heretick Convict. For both these Things are "entirely at the Pleasure of the Judge."

These Witnesses must be of the same Order as the accused or defamed Person himself, *i. e.* if he be a Religious they must be religious; if of the secular Clergy, they must be of the secular Clergy; if a Soldier, they must be Soldiers. But here they take the Word Order in general, but don't extend it to any particular Divisions under it. So that if a Bishop is to be purged, Abbots and religious Presbyters may be admitted with Bishops in the Purgation. And so in the others. But if such Compurgators are not to be found, there must be chosen some other good Men, Citizens or others. The Compurgators must be Catholick Men, of an approved Life and good Reputation, who have not only been acquainted with his present, but with his former Conversation and Life, and who probably will not conceal the Truth, or

t. 56. §. 11.

ſay a Falſhood, thro' Affection, Hatred, Fear, Money, or Entreaty. This Sentence is to be declared to the Criminal, who may appeal from it, and after his Appeal the Cauſe muſt be referred to the Council, except the Appeal appears to be frivolous. In ſuch a Caſe the Inquiſitors muſt not allow it, as it is in general appointed by *Clement* IV. and in particular by a certain Letter of the Council of the holy Inquiſition.

If there be no Appeal from the Sentence, or if the Sentence be confirm'd after the Appeal, or if it be rejected as frivolous by the Inquiſitors, the Criminal, in order to purge himſelf, muſt name ſo many good Men, for expurgatory Witneſſes, as are mentioned in the Sentence of the Inquiſitors. Theſe Witneſſes muſt be ſeparately cited before the Inquiſitors, and asked theſe three Things. 1. Whether they know the Criminal, and how long? 2. Whether the Criminal, or his Relations, or Kindred, have given and promiſed any Thing to them the ſaid Witneſſes, that they ſhould favour the Criminal? 3. Whether they have offered themſelves to purge the Criminal? After this they are all called to the Place where the Inquiſitors give Audience, and the Criminal is brought to the Tribunal, and interrogated by the Inquiſitors, whether he knows thoſe Men, and whether they are the Perſons which he hath named for his expurgatory Witneſſes? He uſually anſwers that he knows them, and that they are the ſame which he nominated. Theſe Things are done before the Inquiſitors only, and a Secretary or Notary, who commits every Thing to Writing; nor muſt any one be permitted to be preſent at this Purgation, no, not the Vicar of the ordinary Biſhop, as is contained in a certain Letter of the Council of the Inquiſition. However, the Ordinary or his Vicar muſt not be excluded when the Sentence of Purgation is given. Then the Inquiſitor turns himſelf to the Expurgators, and ſpeaks to them in this manner. *Know ye, Brethren, that the Criminal* N. *is accuſed and ſuſpected of this and that Crime, on which account he is obliged to purge himſelf from this Suſpicion, and you are named as Witneſſes of his Innocence. And you* N. *anſwer by* p. 514.
God and the holy Goſpels, whether thou haſt committed thoſe Crimes? Having thus been ſworn upon the Croſs and the holy Goſpels of God, to declare the Truth, the Inquiſitors ſay to him, *Thou* N. *haſt been accuſed of ſuch and ſuch a Crime*, ſpecifying thoſe Crimes only which ſavour of Hereſy, *of which thou art vehemently ſuſpected upon Conſideration of the Merits of the Proceſs, and therefore we demand of you, upon the Oath you have taken, whether you have committed, or done or believed theſe Crimes, or any one of them?* And when he hath given his Anſwer in the Preſence of his Compurgators, he is carried back to Priſon. Then the Inquiſitor interrogates the Purgators, whether they have rightly underſtood all theſe Things? Who anſwer that they have. After this the Witneſſes withdraw, and being each ſeparately called in, the Inquiſitor demands of them, upon a ſolemn Oath, whether they believe *N.* hath ſworn true or falſe? And whatever they anſwer, muſt be faithfully written down by the Notary. All theſe Matters are almoſt to a Word contained in one of the *Seville* Inſtructions, *An.* 1500. *Cap.* 4. Formerly alſo, if a Perſon was publickly defamed for Hereſy, he was injoined canonical Purgation publickly,

that he might publickly satisfy those by Purgation, whom he had publickly offended by the ungrateful Smell of Infamy, and he was therefore purged in that Place where he was known to be defamed. And if he had been defamed in several Places, he was obliged publickly to profess in all of them the Catholick Faith, and to detest the Heresy for which he was there defamed. The Form of the Oath, by which defamed Persons were formerly obliged to purge themselves, was prescribed by the Council of *Tarracone. I* N. *swear by Almighty God, and by these holy Gospels of God, which are now in my Hands, before you the Lord* N. *Arch-Bishop, or Bishop, and before you who are here present, that I neither am, nor was one of the* Inzabbatati, Valdenses, *poor Men of* Lyons, *nor an Heretick of any Sect of Heresy condemned by the Church, and that I do not believe, nor ever have believed their Errors, nor ever will, the whole Time of my Life. Yea, I profess and protest that I do believe, and always will for the future, believe the Catholick Faith, which the holy* Roman *and Apostolick Church publickly holds, teaches and preaches, and which you my Lord Arch-Bishop or Bishop, and the other Prelates of the universal Church do hold, and publickly preach and teach.* The Form of the Oath, prescribed to the Compurgators, is this: *I* N. *swear by God, and by these four holy Gospels of God, which I hold in my Hands, that I firmly believe, that such a one hath not been one of the* Inzabbatati, Valdenses, *or poor Men of* Lyons, *nor an Heretick, nor a Believer of their Errors, and I firmly believe that in this Matter he hath sworn the Truth.* Having performed the Purgation injoined him, the Criminal must be absolved, and declared to be a Person of good Reputation, nor can he be afterwards proceeded against upon the preceding Proofs. And thus the Infamy is removed, or the Effect of the Infamy of the Fact.

If he fails in his Purgation, *i. e.* if he can't procure such and so many Purgers as he is injoined, he is esteem'd as a Convict, and condemned as an Heretick.

Lucern. Inquis. *Purg. Can.* But others use this Distinction. If he can't procure so many Witnesses, because they don't believe he hath sworn the Truth, in such a Case he is accounted as a Convict, and deficient in his canonical Purgation. But if he can't procure them because he is poor, or a Foreigner, and so doth not know so many Persons in the whole Town, in this Case the Judge may relieve him at his Pleasure, upon considering the Quality of the Person, Crime, and Infamy. So that if he can't procure so many of the Clergy to be his Compurgators, they may admit Laicks, or Women for want of Men. And if for the same Reason they can't procure so many of the Laity, they may believe his Oath alone. And inasmuch as one who is defective in his Purgation, is accounted as a Convict, they infer from hence, that if at any other Time he had fallen into Heresy, he ought now to be accounted as a Relapse for the Defect of his Purgation, and, as such, to be delivered over to the secular Court.

But if he refuses to purge himself he is excommunicated, and if with an hardned Mind he lies under this Excommunication for a Year, he is condemned as an Heretick. If after his Purgation he falls into the Heresy from which

which he is purged, he is accounted a Relapse, and as such is to be deliver'd over to the secular Court. Cap. *Excommunicamus* 1. §. *Adjicimus*. Versic. *Vel. si post purgationem*, &c. And Cap. *Ad abolendam*, §. *Illos quoque*, de hæret. This is particularly the Decree of the Council of *Narbonne*, Cap. 11. *And as to those who, after Abjuration or Purgation of their Error, shall be found to have returned to the Error they have abjured, leave them to the secular Judgment without any farther Hearing, to receive their due Punishment. For 'tis enough that they have once deceived the Church by a false Conversion, especially where there is a very great Number of them*, &c. *Altho' if they are penitent, Penance is by no Means to be denied them.* But this properly takes place when any one is vehemently defamed for Heresy. An Infamy is said to be vehement, when any one hath been oftentimes, or in many Places marked with Infamy, amongst good Men, or hath on this account been excluded their Company, and when there arise any Signs or Suspicions increasing the Infamy of the Heresy, or if after any grievous Offence committed, *viz.* the destroying the Images of the Saints, the burning of Churches, the Profanation of the Sacraments, and the like, any one is immediately looked upon as infamous. But if he falls into any other Heresy, from which he had not purged himself before, he is not accounted as a Relapse.

If he humbles himself in his Purgation, and will submit to Penance, he is to be admitted, and not deliver'd over to the secular Court, unless he happens to be a Relapse; for if a convicted Heretick is received when penitent, much more is this Benefit of the Church to be granted to him who is convicted only by a kind of Presumption and feigned Proof. Simanc. *t.* 56. §. 16.

'Tis a Custom amongst many Inquisitors, that a Criminal vehemently suspected shall be first tortured, and afterwards forced to purge himself if he confesses nothing. After this, when he is purged, he is obliged also to abjure, and after his Abjuration punished with other arbitrary Punishments. But others think it very unjust, that any one should be condemned to several Punishments for a single Crime, and inasmuch as every one of these Punishments is sufficient to purge away any Suspicions, 'tis, without doubt, needless and unjust, that a suspected Criminal should be made to undergo many. §. 17. §. 18. §. 20.

But as this Purgation depends wholly on the Pleasure of other Persons, it is a very deceitful and uncertain Thing, and therefore should not easily be injoined Criminals by the Inquisitors. Thus the *Madrid* Instruction, *An.* 1561. cap. 47. *Canonical Purgation is, thro' the Wickedness of Men, a very dangerous Remedy, especially in these Times, and therefore 'tis not much used, and must therefore be seldom practised, and with great Caution.* Hence *Simancas* judges, that those who are born of *Jewish* or *Moorish* Parents, must not be compelled to this Purgation, because it would be the same Thing as to throw them directly into the Fire. For who doth not think ill of them, or at least doubt of their Innocence? And therefore he thinks it would be better to compel them by Abjuration, Torments, or arbitrary Punishments. But if they are at any time condemned to this Purgation, and they can't procure such Compurgators as are required, others are to be admitted, tho' not altogether so Pegna, *in Direct. p.* 2. *com.* 14. *tit.* 56. §. 1.

 fit,

fit, that he may not be wholly deprived of the Means of his Defence. And finally, he again and again admonishes the Inquisitors not rashly or easily to condemn any one to canonical Purgation, for this Reason, amongst others, that 'tis enough to sink the Criminal, if the Witnesses answer, that they don't know, or doubt, whether he swore true or false. And indeed who would not be doubtful in this Case, who knows that no one is condemned to Purgation who is not vehemently suspected. And therefore, in his Opinion they only are to be injoined Purgation, whose Reputation is of high Concern to the Christian People, *viz.* Bishops, Priests, Preachers, and others of the same Kind.

CHAP. XXIX.

How the PROCESS *is ended by Torture.*

WHEN the Person accused is not found guilty either by his own Confession, or the Evidence of the Fact, or legally producing the Witnesses, and when there is no such Evidence to support the Suspicion, as is necessary to his being condemned to abjure Heresy, he is condemned by an interlocutory Sentence to the Question and Torture, that if he confesses nothing when interrogated by Torture, he may be esteemed as free and innocent, and that if he confesses his Errors he may be converted and live. *For the same End*, says *Simancas*, Paul *delivered the* Corinthian *to Satan for the Destruction of his Flesh, that his Spirit might be saved.*

Cathol. Instit. t. 65. §. 11. p. 2. Assert. 31. §. 295. 296.

Royas however says, that *Ulpian* spoke well, when he affirmed, that Credit should not always be given to the Question, for 'tis a very frail and dangerous Thing, and oftentimes keeps the Truth from appearing. Some are fearful, who had rather lie and speak Falshood instead of Truth, than endure Torments. And yet in the Crime of Heresy, *Royas* would have the Judges peculiarly disposed, and ready to put Men to the Torture, because 'tis a Crime concealed in its Nature, and there is oftentimes great want of Proof. *Simancas* adds, that in secret Crimes a Judge ought to be more ready to inflict Torture than in others, and especially in Heresy, which lies hid in the Heart, and is more concealed than other Crimes. Add to this, that an Heretick's confessing, will be greatly profitable to himself and the whole Commonwealth.

tit. 65. §. 51.

The Cases, in which they proceed to the Torture in the Process of the Inquisition, are various. This however is a received Thing, that they are never to proceed to Torture, unless there be a Defect of other Proofs, and they think that the Truth can't otherwise be found out. Hence they do not proceed to the Torture, till after the Criminal hath a Copy of his Process, and he hath answered to all the Articles, and exhibited his Defences, and yet

can't make his Innocence appear plainly to the Judge, when at the same time he can't be fully convicted by Witnesses, or the Evidence of the Thing.

'Tis however disputed amongst the Doctors, whether the Proofs are to be given to the Criminal when the Process is carried on *Ex mero officio*. Some affirm it, some deny it. These different Opinions *Camillus Campegius* thus reconciles. Some Things precede all Inquisition, and are the Original of the Inquisition it self, *viz.* such Things as excite the Judge himself to make Inquisition, or which any ways give Information of the Crime committed. These Things are called Informations, which are received in Court, by which the Judge is certified of the Defamation. And he thinks the Doctors are to be understood of these Things when they affirm, that a Judge proceeding *merely by Office*, and not at the Instance of any one else, is not obliged to give a Copy of the Proofs. But if the Criminal denies that he is defamed of such a Crime, the Judge ought to inquire concerning the Fame and Infamy, and upon Knowledge of this must begin to proceed to Inquisition concerning the Offence. Not that he is obliged to ascertain the Criminal of the Infamy it self, because 'tis sufficient that the Judge knows him to be defamed. So that if in this Case the Criminal demands a Copy, the Judge is not obliged to give it him. But if the Judge proceeds at the Instance of another, he is obliged to give him a Copy of the Infamy it self if he demands it. The Reason of the Difference is this, that when any one proceeds *ex mero officio*, 'tis sufficient that the Infamy appears to the Judge, so that there is no need of a formal Trial, because there is no Adversary to try the Cause with; but the Trial is, as it were, between the Infamy it self, which is in the Place of an Accuser, and the Answer of the Person under Inquisition. Add to this, that an Inquisition may be carried on, *ex mero officio*, without any preceding Infamy.

In Zanch. c. 9. §. 9.

He adds farther, that a Copy of the Proofs is not to be given, when the Criminal is found contradicting himself, faultering or trembling. For such Contradiction, Faultring, or Trembling, when other external Proofs are wanting, may determine the Judge to proceed to Torture upon any one of them. But others say that every Variation is not enough to order to the Torture. *Bernard Comensis* writes to the same Purpose.

" In the Crime of Heresy the Judge or Inquisitor proceeds merely by Virtue of his Office, because he doth not proceed upon the Accusation of an Accuser, but upon Depositions taken by Virtue of his Office, and therefore 'tis not necessary that he should deliver the Criminal a Copy of the Proofs and Articles. But *Pegna* teaches the contrary in his Annotations upon the Word, *Tradere Copiam*.

Lucern. Inq. in voce *Tortura.* § 5.

If the Person to be put to the Question is caught contradicting himself, and there are at the same time other Proofs sufficient for the Torture, both these Things must be added in his Sentence. But if both of them don't concur, but only one of them, *i. e.* if he is caught in Contradiction without other Proofs, or if there are other Proofs, but no such Inconsistency, let it be put in his Sentence just as it appears.

'Tis

'Tis farther to be observed, that the Judge must take Care that it be diligently and distinctly inserted at large by the Notary in the Acts, whether the Person interrogated answered with Resolution, or in a trembling Manner, what Signs he discovered in his Face, whether Paleness, or Tears, or Laughter, or Sweat, or Trembling; because, in Case of an Appeal, the superior Judge, who can't look on the Criminals and Witnesses personally, but only as they are described in Writing, can't come to the Knowledge of these Particulars, unless they are described at large by the first Judge; nor can the Judge appealed to presume that there hath been any Inconsistency, because he knew, that if there had, it ought to have been expressed in the Acts transmitted to him. And this is the more necessary, lest the Judge himself, upon Examination, should be proved to have ordered the Criminal to be tortured without Proof. This Inconsistency must be declared in Presence of the inconsistent Witness, when the Judge intends to punish him on this Account.

And this is what *Campegius* particularly recommends to the Vicars or Commissaries of the Inquisitor, or the other Deputies of the holy Offices, that they let the Inquisitor know how far Persons, under Examination, are to be credited, which principally depends on their Looks. He thinks the same ought to be diligently observed, whether the Inquisitor himself, or his Vicar, makes the Examination, with respect to those skilful Persons, whose Advice they take, who also ought to know these Things.

But it depends wholly on the Pleasure of the Judge, whether or no the Person accused shall be tortured or not, upon Account of such Inconsistency, Faultering, Contradiction, Trembling, Sweat, *&c.*

If there are Proofs sufficient for Inquisition and Arrest, but not for the Torture, a prudent Judge may collect sufficient Proofs for the Torture from such Inconsistency, and the like.

But yet there is a Case given, in which a Person may be tortured, without any Proofs and Copy given, *viz.* when the Person under Inquisition is present, and will not answer. For then he is to be tortured not to extort a Confession, but an affirmative or negative Answer. Likewise if a Person under Inquisition doth not appear within the due Term, and is thereupon declared guilty of Contumacy, and afterwards comes to purge himself from such Contumacy, he may, without any other Proofs, be tortured upon Account of it.

Addit. in Zanch. *c.* 11. The same Persons give us the Opinion of *Gand*, who alledging several Reasons, concludes, that a common Report amounts by the Canon Law to an half full Proof, and is equal to the Evidence of one Witness, and that for this Reason such common Report is sufficient to order to the Torture; and this he attests hath been usually practised by all the Assessors, altho' the Judges generally act one way or the other, according to their different Opinions.

When the Fame is either vehement, or great, or slight, the Quality of the Persons and Fact is to be considered. For if the Fact be great, and the Person

Person of great Worth, 'tis necessary that this Fame should be either of the whole City, or at least the greater Part of it. But if the Fact is inconsiderable, and restrained to a certain Number of Persons, who most probably are acquainted with it, the Evidence of the major Part of them is enough to prove the Fame. As if a Bishop, living with his Canons, should be defamed for Fornication, such Infamy will be sufficiently proved by the major Part of those Canons. But if the Fact be very small, and the Person mean, the major Part of his Neighbourhood is enough.

Of all these Things *Pegna* gives us a distinct Account. In this Cause, the Crime is said to appear so far as to inflict the Torture, when there is an half full Proof, or Proof sufficient for the Torture. Of these Proofs there are several. First, Inconsistency, not indeed of any kind, but such only as regards the main Substance of the Crime, and in a Matter which it can't be presumed should be forgotten in so little a while, which is left to the Judge to determine; and when the Criminal himself doth not appear to be very stupid and forgetful. Secondly, when any one is found defamed for Heresy, and 'tis farther proved that there is a Witness against him who can testify from his own Knowledge, or that there is one or more vehement or violent Proofs. Thirdly, If there is one Witness against him who can testify from his own Knowledge, and at the same Time there is one or more vehement or violent Proofs against him. Or if it be found that there are against him several vehement or violent Proofs of Heresy, without any Infamy, or Witness from his own Knowledge. But when these Proofs are vehement, or sufficient for the Torture, is left to the Judge to determine.

Direct. P. 3. com. 110. Lucern. Inquis. in voce Tortura.

However, the Inquisitors do sometimes shamefully abuse this Liberty, and rashly proceed to the Torture of innocent Persons, as will evidently appear by one Instance, not to mention more, given us by *Gonsalvius*. "At the same time almost they apprehended in the Inquisition at *Seville*, a noble "Lady, *Joan Boborquia*, the Wife of *Francis Varquius*, a very eminent Man, "and Lord of *Higuera*, and Daughter of *Peter Garsia Xeresius*, a wealthy "Citizen of *Seville*. The Occasion of her Imprisonment was, that her Sister, "*Mary Boborquia*, a young Lady of eminent Piety, who was afterwards "burnt for her pious Confession, had declared in her Torture, that she had "several times conversed with her Sister concerning her own Doctrine. When "she was first imprisoned, she was about six Months gone with Child, "upon which Account she was not so straitly confined, nor used with that "Cruelty which the other Prisoners were treated with, out of Regard to "the Infant she carried in her. Eight Days after her Delivery they took the "Child from her, and on the fifteenth shut her close up, and made her undergo the Fate of the other Prisoners, and began to manage her Cause with "their usual Arts and Rigour. In so dreadful a Calamity she had only this "Comfort, that a certain pious young Woman, who was afterwards burnt "for her Religion by the Inquisitors, was allowed her for her Companion. "This young Creature was, on a certain Day, carried out to her Torture, "and being returned from it into her Jayl, she was so shaken, and had all

p. 181.

" her

" her Limbs so miserably disjointed, that when she laid upon her Bed of " Rushes, it rather encreased her Misery than gave her Rest, so that she " could not turn her self without the most excessive Pain. In this Condition, " as *Boborquia* had it not in her Power to shew her any, or but very little " outward Kindness, she endeavoured to comfort her Mind with great Ten- " derness. The Girl had scarce began to recover from her Torture, when " *Boborquia* was carried out to the same Exercise, and was tortured with such " diabolical Cruelty upon the Rack, that the Rope pierced and cut into the " very Bones of her Arms, Thighs, and Legs, and in this Manner she was " brought back to Prison, just ready to expire, the Blood immediately " running out of her Mouth in great Plenty. Undoubtedly they had burst " her Bowels, insomuch that the eighth Day after her Torture she died. " And when after all they could not procure sufficient Evidence to condemn " her, tho' sought after and procured by all their Inquisitorial Arts, yet as " the accused Person was born in that Place, where they were obliged to " give some Account of the Affair to the People, and indeed could not by " any Means dissemble it, in the first Act of Triumph appointed after her " Death, they commanded her Sentence to be pronounced in these Words. " Because this Lady died in Prison, without Doubt suppressing the Causes of " it, and was found to be innocent upon inspecting and diligently examining " her Cause, therefore the holy Tribunal pronounces her free from all Char- " ges brought against her by the Fiscal, and absolving her from any farther " Process, doth restore her both as to her Innocence and Reputation, and " commands all her Effects which had been confiscated, to be restored to " those to whom they of Right belonged, *&c.* And thus after they had " murthered her by Torture with savage Cruelty, they pronounced her in- " nocent."

Simanc. t. 65. §. 53.

When the Sentence is pronounced by which the Criminal is condemned to the Torture, according to the Manner of the Inquisitorial Law and Processes, 'tis immediately to be notified to the Promotor of the Exchequer, that he may either appeal from it, or demand the Execution of it, as it is contained in the Letters of the Inquisition.

Pegna, in p. 3. com. 110.

Formerly the Torture was inflicted by Lay Judges upon Hereticks or suspected Persons, according to the Constitution of *Innocent* IV. But because by this Means secret Matters were oftentimes divulged, and great Inconveniencies to the Faith arose from hence, they afterwards thought it more convenient and wholesome, that the whole Cognisance and full Discussion of these Crimes, which are merely Ecclesiastical, should be confined to the Inquisitors. And as this could not oftentimes be done without the Question, 'twas therefore provided, that the Inquisitors and Bishops might torture Criminals for these Offences. And upon this Account they had this Privilege granted them, that if at any time they should happen to contract any Irregularity, they should mutually dispense with each other. As appears from the Rescript of *Urban* IV. beginning, *Ut negotium.* And this is the Law now in Practice.

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The Biſhop and Inquiſitor therefore meet together, and by an interlocutory Sentence, pronounce that the accuſed Perſon is to be put to the Torture ſuch a Day and ſuch an Hour. Thus the *Madrid* Inſtruction, *An.* 1561. *c.* 48. commands. *Let the Inquiſitors and Ordinary meet together to pronounce Sentence of Torture, and in the ſame Manner be preſent at the Execution of it, by reaſon of the various Caſes that may happen under the Torture.* For neither the Biſhop without the Inquiſitor, nor the Inquiſitor without the Biſhop, or his Vicar, can put any one to the Torture. But if the Biſhop or his Vicar, upon Summons ſent them, either refuſes or neglects to be preſent within eight Days, the Inquiſitor may proceed alone to the Torture; or if one be not within Reach of the other, if he be abſent a great way off, then the other may proceed by himſelf. But what Place may be ſaid to be a great way off, is left at the Pleaſure of the Judge to determine. However, the Biſhop and Inquiſitor may depute each other, or ſignify their Conſent by Letters, which muſt be done within eight Days after they are ſummoned. In the Inquiſition at *Cremona*, the Advocate of the Exchequer is preſent at the Torture, and the Inquiſitor there ſits in the Middle between the Vicar General on his right Hand, and the Advocate on his left. Carena, *p.* 1. *t.* 9. *num.* 41.

As to the Perſons who may be tortured, altho' in all other Cauſes and Crimes ſome Perſons are excepted, ſuch as Doctors, Soldiers, Officers, Noblemen, and their Sons, yet in this moſt grievous and horrible Crime of Hereſy, there is no Privilege to defend any one, but all may be put to the Torture, even Clergymen, Monks, and other Religious. But to prevent Excommunication, by grievouſly torturing or hurting them, and on Account of the Dignity with which they are inveſted, they torture them more gently and mildly, unleſs the Heinouſneſs of the Crime, and the Strength of the Evidence requires otherwiſe. As to ſuch who are freed from being tortured for other Crimes upon Account of their Youth, or old Age, or being with Child, they are not to be tortured for Hereſy. Perſons under twenty-five may be tortured for Suſpicion of Hereſy, but not if they are under fourteen, but they may be terrified and beat. Neither is there any Exception of Place, altho' by antient Cuſtom or municipal Laws the Torture is not otherwiſe to be inflicted there. Thus in the Kingdom of *Aragon* no Judge can order any Criminal to the Torture, but yet in Favour of the Faith any Perſons, even tho' privileged, may be tortured for Suſpicions of Hereſy. Pegna, *Ibid.* *p.* 642, 643.

After the Sentence of Torture is pronounced, the Officers prepare themſelves to inflict it. "The Place of Torture in the *Spaniſh* Inquiſition is generally an under-ground and very dark Room, to which one enters thro' ſeveral Doors. There is a Tribunal erected in it, in which the Inquiſitor, Inſpector, and Secretary ſit. When the Candles are lighted, and the Perſon to be tortured brought in, the Executioner, who was waiting for the other, makes an aſtoniſhing and dreadful Appearance. He is covered all over with a black Linen Garment down to his Feet, and tied cloſe to his Body. His Head and Face are all hid with a long black Cowl, only two little Holes being left in it for him to ſee thro'. All this is intended to Gonſalv. *p.* 65, 66.

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Whilſt the Officers are getting Things ready for the Torture, the Biſhop and Inquiſitor by themſelves, and other good Men zealous for the Faith, endeavour to perſuade the Perſon to be tortured, freely to confeſs the Truth, and if he will not, they order the Officers to ſtrip him, who do it in an In-
Simanc. t. 65. §. 50. ſtant. Clergymen however muſt not be tortured by a Lay Officer or Torturer, unleſs they can't find any Clergymen who know how to do it, or are willing, becauſe it would be in vain for the Judges to order any Clergyman or Monk to the Torture, if there was no Body to inflict it; and therefore in ſuch a Caſe 'tis uſual to torture them by Lay Officers.

Whilſt the Perſon to be tortured is ſtripping, he is perſuaded to confeſs the Truth. If he refuſes it, he is taken aſide by certain good Men, and perſuaded to confeſs, and told by them, that if he confeſſes, he will not be put to Death, but only be made to ſwear that he will not return to the Hereſy he hath abjured. The Inquiſitor and Biſhop promiſe the ſame, unleſs the Perſon be a Relapſe.

If he is neither perſuaded by Threatnings or Promiſes to confeſs his Crime, he is tortured either more lightly or grievouſly, according as his Crime requires, and frequently interrogated during the Torture, upon thoſe Articles for which he is put to it, beginning with the leſſer ones, becauſe they think he will ſooner confeſs the leſſer Matters than the greater.

Royas, p. 2. *Aſſert.* 20. §. 226. " The Criminals are with great Care and Diligence to be admoniſhed by " the Inquiſitors, and eſpecially when they are under Torture, that they " ſhould not by any Means bear falſe Witneſs againſt themſelves or others, " thro' Fear of Puniſhments or Torments, but ſpeak the Truth only. Nor " may the Inquiſitors promiſe Pardon or Forgiveneſs of the Offence, to com- " pel the Criminals to confeſs Crimes which they have not committed, out of " their great Zeal to inquire out the Truth. And ſuch a falſe Confeſſion the " accuſed Perſon may ſafely revoke."

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Whilst these Things are doing, the Notary writes every Thing down in the Process, as what Tortures were inflicted, concerning what Matters the Criminal was interrogated, and what he answered. If by these Tortures they can't draw from him a Confession, they shew him other kind of Tortures, and tell him he must undergo all of them, unless he confesses the Truth. If neither by this Means they can extort the Truth, they may to terrify him and engage him to confess, assign the second or third Day to continue, not to repeat the Torture, till he hath undergone all those Kinds of them to which he is condemned.

The Degrees of Torture formerly used were five, which were inflicted in their Turn, and are described by *Julius Clarus. Know therefore, says he, that* Pract. *there are five Degrees of Torture,* viz. *First, the being threatned to be tortured.* crim. § *fin. Secondly, being carried to the Place of Torture. Thirdly, by stripping and binding.* qu. 64. *Fourthly, the being hoisted up on the Rack. Fifthly, Squassation.* Versic. *Nunc de*

This Stripping is performed without any Regard to Humanity or Honour, *gradibus.* not only to Men, but to Women and Virgins, tho' the most virtuous and Gonsalv. chast, of whom they have sometimes many in their Prisons. For they cause *p.* 67. them to be stripped, even to their very Shifts, which they afterwards take off, forgive the Expression, even to their *Pudenda*, and then put on them strait Linen Drawers, and then make their Arms naked quite up to their Shoulders. As to Squassation, 'tis thus performed: The Prisoner hath his Hands *p.* 70. bound behind his Back, and Weights tied to his Feet, and then he is drawn up on high, till his Head reaches the very Pully. He is kept hanging in this Manner for some time, that by the Greatness of the Weight hanging at his Feet, all his Joints and Limbs may be dreadfully stretched, and on a sudden he is let down with a Jirk, by the slacking the Rope, but kept from coming quite to the Ground, by which terrible Shake, his Arms and Legs are all disjointed, whereby he is put to the most exquisite Pain; the Shock which

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his Companions and Accomplices in his Crime, his Teachers and his Disciples, for he ought to discover them, tho' he be not interrogated; but when he is interrogated concerning them, he is much more obliged to discover them than his Accomplices in any other the most grievous Crimes. A Person also § 60. suspected of Heresy, and fully convicted, may be tortured upon another Account, *i. e.* to discover his Companions and Accomplices in the Crime. This must be done when he boggles, or 'tis half fully proved at least that he was actually present with them, or hath such Companions and Accomplices in his Crime; for in this Case he is not tortured as a Criminal, but as a Witness. But he who makes full Confession of himself, is not tortured upon a different Account; whereas if he be a Negative, he may be tortured upon another Account, to discover his Accomplices and other Hereticks, tho' he be fully convicted himself, and it be half fully proved that he hath such Accomplices. *Instruct. Madrid.* An. 1561. c. 45. The Reason of the Difference in these Royas, Cases is this, because he who confesses against himself, would certainly much *p.* 2. rather confess against other Hereticks if he knew them. But 'tis otherwise *Assert.* 34. when the Criminal is a Negative.

Whilst these Things are doing, the Notary writes every Thing down in the Process, as what Tortures were inflicted, concerning what Matters the Criminal was interrogated, and what he answered. If by these Tortures they can't draw from him a Confession, they shew him other kind of Tortures, and tell him he must undergo all of them, unless he confesses the Truth. If neither by this Means they can extort the Truth, they may to terrify him and engage him to confess, assign the second or third Day to continue, not to repeat the Torture, till he hath undergone all those Kinds of them to which he is condemned.

The Degrees of Torture formerly used were five, which were inflicted in their Turn, and are described by *Julius Clarus. Know therefore, says he, that* *Pract.* *there are five Degrees of Torture,* viz. *First, the being threatned to be tortured.* *crim.* §. *fin.* *Secondly, being carried to the Place of Torture. Thirdly, by stripping and binding.* qu. 64. *Fourthly, the being hoisted up on the Rack. Fifthly, Squassation.* Versic. *Nunc de*

This Stripping is performed without any Regard to Humanity or Honour, *gradibus.* not only to Men, but to Women and Virgins, tho' the most virtuous and Gonsalv. chast, of whom they have sometimes many in their Prisons. For they cause *p.* 67. them to be stripped, even to their very Shifts, which they afterwards take off, forgive the Expression, even to their *Pudenda*, and then put on them strait Linen Drawers, and then make their Arms naked quite up to their Shoulders. As to Squassation, 'tis thus performed: The Prisoner hath his Hands *p.* 70. bound behind his Back, and Weights tied to his Feet, and then he is drawn up on high, till his Head reaches the very Pully. He is kept hangiug in this Manner for some time, that by the Greatness of the Weight hanging at his Feet, all his Joints and Limbs may be dreadfully stretched, and on a sudden he is let down with a Jirk, by the slacking the Rope, but kept from coming quite to the Ground, by which terrible Shake, his Arms and Legs are all disjointed, whereby he is put to the most exquisite Pain; the Shock which

he receives by the sudden Stop of his Fall, and the Weight at his Feet stretching his whole Body more intensely and cruelly.

In the next Paragraph, *Et Audivi*, he gives a more distinct Explication of this Matter, and reckons up three Degrees of Torture. *The first is to terrify, which comprehends not only Threatnings to Torture, but the being carried to the Place of Torments, the being stripped and bound; unless such Binding should happen to be too severe and hard, and perform'd with a Twist, as is the Custom of most Judges. Thus it was practised upon a certain Physician of* Olezo, *who suffered more by being bound, than others in the very Torture. And therefore such Binding may be equalled to the Torture it self. The second Degree is, to put to the Torture, or to interrogate by Torture. This is done by hoisting a Person up, and keeping him hanging for a considerable Time. The third is to torture by Squassation, which is performed amongst us by one Jirk of the Rope. But if the Senate commands that the Person be well or severely thus tortured, they give two Jirks of the Rope. Antonius Drogus*, in his Annotations to this Place, says, *That you may have the perfect modern Practice, observe, that when the Senate orders, let him be interrogated by Torture, the Person is lifted or hoisted up, but not put to the Squassation. If the Senate orders, let him be tortured, he must then undergo the Squassation once, being first interrogated as he is hanging upon the Rope and Engine. If it orders, let him be well tortured, 'tis understood that he must suffer two Squassations. If it orders, let him be severely tortured, 'tis understood of three Squassations, at three different Times within an Hour. If it says very severely, 'tis understood that it must be done with Twisting,— and Weights at the Feet. In this Case the Senate generally expresses the Twisting, or any other particular Manner which they intend, and the Judge may proceed to every Severity not reaching to Death. But when it says, very severely even unto Death, then the Criminal's Life is in immediate Danger.*

The like Method of Torture was formerly practised in the Inquisition at *Tholouse*, as appears from several Places in the Book of Sentences. Thus *fol.* 67. at the End of the Sentence of *William Sicred*, jun. we read, *Nor would he judicially confess concerning the aforesaid, till he was put in Jayl, and hoisted up a little upon the Rope.* And in *fol.* 131. we read that *William Cavallerii*, after a considerable Time, revoked what he had before confessed, *saying, that he confessed nothing concerning Heresy, but what was forced from him by the Violence of Torment.* And finally, *fol.* 132. in the Sentence of Friar *Bernard Deliciosi*, of the Order of Minors, amongst other Things, this was imputed to him as a Crime, *that he justified those who were apprehended for Heresy, and condemned for it, and ordered to perpetual Imprisonment and other Punishments, and that tho' they were true Catholicks, they had confessed Heresy of themselves and others, only thro' the Violence of their Torments, and were unjustly condemned.*

Cap. 23. The Author of the History of the Inquisition at *Goa* tells us, that the Torture now practised in the *Portuguese* Inquisition is exceeding cruel. *In the Months of* November *and* December, *I heard every Day in the Morning the Cries and Groans of those who were put to the Question, which is so very cruel, that I have seen several of both Sexes who have been ever after lame. In this Tribunal they regard neither Age nor Sex, nor Condition of Persons, but all without Distinction are tortured, when 'tis for the Interest of this Tribunal.*

The

The Method of Torturing, and the Degree of Tortures now used in the *Spanish* Inquisition, will be well understood from the History of *Isaac Orobio*, a *Jew*, and Doctor of Physick, who was accused to the Inquisition as a *Jew*, by a certain *Moor* his Servant, who had by his Order before this been whipped for thieving; and four Years after this he was again accused by a certain Enemy of his for another Fact, which would have proved him a *Jew*. But *Orobio* obstinately denied that he was one. I will here give the Account of his Torture, as I had it from his own Mouth. After three whole Years which he had been in Jayl, and several Examinations, and the Discovery of the Crimes to him of which he was accused, in order to his Confession, and his constant Denial of them, he was at length carried out of his Jayl, and thro' several Turnings brought to the Place of Torture. This was towards the Evening. It was a large under-ground Room, arched, and the Walls covered with black Hangings. The Candlesticks were fastned to the Wall, and the whole Room enlightned with Candles placed in them. At one End of it there was an inclosed Place like a Closet, where the Inquisitor and Notary sat at a Table, so that the Place seemed to him as the very Mansion of Death, every Thing appearing so terrible and awful. Here the Inquisitor again admonished him to confess the Truth, before his Torments began. When he answered he had told the Truth, the Inquisitor gravely protested, that since he was so obstinate as to suffer the Torture, the holy Office would be innocent, if he should shed his Blood, or even expire in his Torments. When he had said this, they put a Linen Garment over his Body, and drew it so very close on each Side, as almost squeezed him to Death. When he was almost dying, they slackned at once the Sides of the Garment, and after he began to breathe again, the sudden Alteration put him to the most grievous Anguish and Pain. When he had overcome this Torture, the same Admonition was repeated, that he would confess the Truth in order to prevent farther Torment. And as he persisted in his Denial, they tied his Thumbs so very tite with small Cords, as made the Extremities of them greatly swell, and caused the Blood to spurt out from under his Nails. After this he was placed with his Back against a Wall, and fixed upon a little Bench. Into the Wall were fastned little Iron Pullies, thro' which there were Ropes drawn, and tied round his Body in several Places, and especially his Arms and Legs. The Executioner drawing these Ropes with great Violence, fastned his Body with them to the Wall, so that his Hands and Feet, and especially his Fingers and Toes being bound so straitly with them, put him to the most exquisite Pain, and seemed to him just as tho' he had been dissolving in Flames. In the Midst of these Torments the Torturer, of a sudden, drew the Bench from under him, so that the miserable Wretch hung by the Cords without any Thing to support him, and by the Weight of his Body drew the Knots yet much closer. After this a new kind of Torture succeeded. There was an Instrument like a small Ladder, made of two upright Pieces of Wood, and five cross ones sharpned before. This the Torturer placed over against him, and by a certain proper Motion struck it with great Violence against both his Shins, so that he received upon each of

them

them at once five violent Strokes, which put him to ſuch intolerable Anguiſh that he fainted away. After he came to himſelf, they inflicted on him the laſt Torture. The Torturer tied Ropes about *Orobio*'s Wriſts, and then put thoſe Ropes about his own Back, which was covered with Leather, to prevent his hurting himſelf. Then falling backwards, and putting his Feet up againſt the Wall, he drew them with all his Might, till they cut thro' *Orobio*'s Fleſh even to the very Bones; and this Torture was repeated thrice, the Ropes being tied about his Arms about the Diſtance of two Fingers Breadth from the former Wound, and drawn with the ſame Violence. But it happen'd, that as the Ropes were drawing the ſecond time, they ſlid into the firſt Wound, which cauſed ſo great an Effuſion of Blood, that he ſeemed to be dying. Upon this the Phyſician and Surgeon, who are always ready, were ſent for out of a neighbouring Apartment, to ask their Advice, whether the Torture could be continued without Danger of Death, leaſt the Eccleſiaſtical Judges ſhould be guilty of an Irregularity if the Criminal ſhould die in his Torments. They, who were far from being Enemies to *Orobio*, anſwered, that he had Strength enough to endure the reſt of the Torture, and hereby preſerved him from having the Tortures he had already endured repeated on him, becauſe his Sentence was, that he ſhould ſuffer them all at one time, one after another. So that if at any time they are forced to leave off thro' Fear of Death, all the Tortures, even thoſe already ſuffered, muſt be ſucceſſively inflicted, to ſatisfy the Sentence. Upon this the Torture was repeated the third time, and then it ended. After this he was bound up in his own Cloaths, and carried back to his Priſon, and was ſcarce healed of his Wounds in ſeventy Days. And inaſmuch as he made no Confeſſion under his Torture, he was condemned, not as one convicted, but ſuſpected of *Judaiſm*, to wear for two whole Years the infamous Habit called *Sambenito*, and after that Term to perpetual Baniſhment from the Kingdom of *Seville*.

p. 19. *Erneſtus Eremundus Friſius*, in his Hiſtory of the Low Country Diſturbances, gives us an Accouut from *Gonſalvius*, of another Kind of Torture. There is a Wooden Bench, which they call the Wooden Horſe, made hollow like a Trough, ſo as to contain a Man lying on his Back at full Length, about the Middle of which there is a round Bar laid acroſs, upon which the Back of the Perſon is placed, ſo that he lies upon the Bar inſtead of being let into the Bottom of the Trough, with his Feet much higher than his Head. As he is lying in this Poſture, his Arms, Thighs and Shins are tied round with ſmall Cords or Strings, which being drawn with Screws at proper Diſtances from each other, cut into the very Bones, ſo as to be no longer diſcerned *. Beſides this, the Torturer throws over his Mouth and Noſtrels a thin Cloath, ſo that he is ſcarce able to breathe thro' them, and in the mean Gonſalv. while a ſmall Stream of Water like a Thread, not Drop by Drop, falls from p. 76, 77. on high, upon the Mouth of the Perſon lying in this miſerable Condition,

* Theſe two Methods of Puniſhment ſeem to be taken from the two different Forms of the antient *Eculeus*.

and

The Torture used in the Inquisition. p. 222.

and ſo eaſily ſinks down the thin Cloth to the Bottom of his Throat, ſo that there is no Poſſibility of breathing, his Mouth being ſtopped with Water, and his Noſtrels with the Cloth, ſo that the poor Wretch is in the ſame Agony, as Perſons ready to die, and breathing out their laſt. When this Cloth is drawn out of his Throat, as it often is, that he may anſwer to the Queſtions, it is all wet with Water and Blood, and is like pulling his Bowels thro' his Mouth. There is alſo another Kind of Torture peculiar to this Tribunal, which they call the Fire. They order a large Iron Chafin-diſh full of lighted Char-coal, to be brought in, and held cloſe to the Soles of the tortured Perſon's Feet, greaſed over with Lard, ſo that the Heat of the Fire may more quickly pierce thro' them.

This is Inquiſition by Torture, when there is only half full Proof of their Crime. However, at other Times Torments are ſometimes inflicted upon Perſons condemned to Death, as a Puniſhment preceding that of Death. Of this we have a remarkable Inſtance in *William Lithgow*, an *Engliſhman*, who, as he tells us in his Travels, was taken up as a Spy in *Mallagom*, a City of *Spain*, and was expoſed to the moſt cruel Torments upon the Wooden Horſe. But when nothing could be extorted from him, he was delivered to the Inquiſition as an Heretick, becauſe his Journal abounded with Blaſphemies againſt the Pope and the Virgin *Mary*. When he confeſſed himſelf a Proteſtant before the Inquiſitor, he was admoniſhed to convert himſelf to the *Roman* Church, and was allowed eight Days to deliberate on it. In the mean while the Inquiſitor and Jeſuites came to him often, ſometimes wheedling him, ſometimes threatning and reproaching him, and ſometimes arguing with him. At length they endeavour'd to overcome his Conſtancy by kind Aſſurances and Promiſes. But all in vain. And therefore as he was immovably fixed, he was condemned in the Beginning of *Lent*, to ſuffer the Night following eleven moſt cruel Torments, and after *Eaſter* to be carried privately to *Granada*, there to be burnt at Midnight, and his Aſhes to be ſcattered into the Air: When Night came on his Fetters were taken off, then he was ſtripped naked, put upon his Knees, and his Hands lift up by Force; after which opening his Mouth with Iron Inſtruments, they filled his Belly with Water till it came out of his Jaws. Then they tied a Rope hard about his Neck, and in this Condition rolled him ſeven times the whole Length of the Room, till he was almoſt quite ſtrangled. After this they tied a ſmall Cord about both his great Toes, and hung him up thereby with his Head towards the Ground, and then cut the Rope about his Neck, letting him remain in this Condition, till all the Water diſcharged it ſelf out of his Mouth; ſo that he was laid on the Ground as juſt dead, and had his Irons put on him again. But beyond all Expectation, and by a very ſingular Accident, he was deliver'd out of Jayl, eſcaped Death, and fortunately ſail'd home to *England*. But this Method of Torturing doth not belong to this Place, where we are treating only of the Inquiſition of a Crime not yet fully proved.

If when the Perſon is decently tortured he confeſſes nothing, he is allowed to go away free, and if he demands of his Judges that he be cleared by Sentence;

tence, they can't deny it him; and they pronounce, that having diligently examined the Merits of the Procefs, they find nothing of the Crime of which he was accufed legally proved againft him. There is extant in this Cafe a Decree in the *Madrid* Inftruction, An. 1561. cap. 54. *If the Criminal overcomes the Torture, the Inquifitor muft then weigh and confider the Nature of the Proofs, and the Degree and Form, or Manner of the Torture, and the Difpofition or Nature and Age of the tortured Criminal. All which Things confidered, if it appears that he hath fufficiently purged himfelf of all Marks, let them abfolve him from any farther Procefs. But if there be any Reafon and Caufe, upon confidering the aforefaid Circumftances, to think that the Torture was not inflicted with due Rigour, then let them inflict on him either a light or vehement Abjuration, or fome pecuniary Penalty. Altho' this ought not to be done without great Confideration, and unlefs the Proofs are not thought fufficiently purged off.*

Pegna, *in* Direct. p. 122.

But if, when under the Queftion, he confeffes, 'tis written in the Procefs, after which he is carried to another Place, where he hath no View of the Tortures, and there his Confeffion made during his Torments is read over to him, and he is interrogated feveral times till the Confeffion be made. But here *Gonfalvius* obferves, that when the Prifoner is carried to Audience, they make him pafs by the Door of the Room where the Torture is inflicted, where the Executioner fhews himfelf on purpofe to be feen in that Shape of a Devil I have defcribed before, that as he paffes by, he may, by feeing him, be forced to feel, as it were, over again his paft Torments. The Space of Time allowed between the Torture and the Ratification of the Confeffion, is determined by the *Madrid* Inftruction, An. 1561. cap. 53. *Twenty-four Hours after the Torture the Criminal muft ratify his Confeffion, and if he retracts it, the Remedies provided by Law muft be made ufe of. And at the time when the Torture is inflicted the Notary muft write down the Hour, as alfo the Time of the Ratification, left if fuch Ratification fhould be made the next Day, a Doubt may arife, whether it was after or before the twenty-four Hours. If the Criminal ratifies his Confeffion made under Torture, and the Inquifitors are fatisfied of his good Confeffion and Converfion, they may admit him to Reconciliation, altho' his Confeffion was made under Torture. They muft however prudently take Care how they receive fuch Perfons, and confider the Nature of the Herefies they have confeffed, and whether they have learnt them from others, or have taught them themfelves to others, upon Account of the Danger that may enfue hereby.*

p. 73.

I am not able to fay what was the Space of Time between the Torture and the Ratification of the Confeffion made under it, formerly in the Inquifition at *Tholoufe*, nor whether the Criminal was difmiffed if he retracted his Confeffion after the Torture was over. There is one Inftance only of *William Cavallerii*, in the Book of the Sentences of the *Tholoufe* Inquifition, who being in Court, and not under the Queftion or Torture, but in a different Place, and before different Officers, and three whole Days after the Torture was over, again confeffed the Things he had before confeffed under Torture, and perfevered in them feveral Times. But afterwards he retracted all, faying, that he confeffed thro' the Violence of his Torments, who yet is faid to be convicted

convicted by certain Witnesses, some of them single, of certain heretical Facts. This Person was pronounced an Heretick by a definitive Sentence, and as such deliver'd over to the secular Court. But upon this Condition, that if within fifteen Days, each five of which were assigned him as so many Terms, he would confess his Crimes, and with a pure Heart and Faith unfeigned return to the Ecclesiastical Unity, abjure all Heresy, and swear simply to obey the Commands of the Church and Inquisitors, he should be absolved from Excommunication, and condemned to perpetual Imprisonment.

If there be very strong Evidence against the Criminal, if new Proofs arise, Simanc.
if the Crime objected to him be very heinous, and the Discoveries against t. 65.
him undoubted, if he was not sufficiently tortured before, he may be tor- §. 75.
tured again, but then only *when his Mind and Body is able to endure it.*

We read in the first *Seville* Instruction, c. 15. *That he who afterwards retracts* §. 80.
the Confession extorted from him by Torture, must solemnly abjure those Errors of which he was defamed, and suffer some pecuniary Penalty at the Pleasure of his Judges, upon account of the Infamy and Suspicion yet remaining against him. But for all this the Inquisitors oftentimes order the Question in this Case to be repeated.

Skilful Judges usually enter a Protest in the Acts of the Process, that they intend to carry on the Torture some other Day, that they may be able to repeat it. But *Royas* says, some Criminals are so crafty, that he hath of- Par. 2.
ten actually seen them immediately confess their Fault when put to the Tor- Assert. 31.
ture, and after twenty four Hours retract their Confession when they should §. 300.
confirm it, and when tortured again confess again, and retract again, and repeat the same as often as they are tortured. In which Case, to prevent the Process from being never finished, he thinks they are to be punished with a very grievous arbitrary Penalty, because of so many Variations, which occasion Proofs and bad Presumptions. For by the same Reason any one may be tortured again, he may be punished in an extraordinaty Manner.

If he doth not persist in his first Confession, and is not sufficiently tortured, he may be put to the Torture again, not by way of Repetition, but Continuation of it; but they do not agree how often it may be repeated, when the Confession extorted by it is retracted. Some affirm it may be repeated once only, others that it may be often. *Eymerick*'s Opinion is, that a Person sufficiently tortured ought to be dismissed freely, if he retracts what he confessed by Torture. But *Simancas* says, that a Criminal must not be condemned t. 65. §. 67,
for a Confession drawn out by Torture, unless he afterwards perseveres in it. 68, 69.
'Tis the same in Law, if it be extorted by Fear, or Dread of impending Torments. The Confession is then said to be extorted thro' Fear of Torments, when the Criminal is carried to the Place in which the Torture is inflicted, and there stript of his Cloaths, or bound, or so terrified by the Judge, as that he hath great Reason to believe the Torture will be inflicted. For 'tis not enough if the Judge frightens him but slightly in any other Place, unless it be such a Fear as may affect a Person of Resolution. Hence the Light of the Inquisitors says, In voce
" Altho' the Judge says to the Criminal, when he is out of the Place of Tortura.

 " Tor- §. 44.

"Torture, either confeſs, or I will order you to the Torture, frightening him by this Means as much as he can, upon hearing of which he makes his Confeſſion, in ſuch a Caſe the Confeſſion is not ſaid to be made thro' Fear of Torments, becauſe the Terror it ſelf is but ſlight.

But if he perſiſts in his Confeſſion, owns his Fault, and asks Pardon of the Church, he is condemned as guilty of Hereſy by his own Confeſſion, but as penitent. But if he obſtinately perſiſts in Hereſy, he is condemned, and delivered over to the ſecular Arm to be puniſhed with Death. If the accuſed Perſon is found to have fallen into Hereſy, or there is otherwiſe Evidence proved againſt him, upon account of which he is obliged to abjure, as lightly or vehemently ſuſpected of Hereſy, he muſt not be tortured on this Account; but if beſides this he denies ſome Things not ſufficiently proved, and there be Proofs ſufficient to put him to the Queſtion, and he accordingly is tortured, but confeſſes nothing, he is not to be abſolved, but is to be proceeded againſt according to the Things proved, and muſt be commanded to abjure either as ſuſpected, or found guilty, as the Merits of the Proceſs require. Or if he confeſſes any Thing by Torture, he muſt be forced alſo to abjure it.

CHAP. XXX.

How the Process *is ended againſt a Perſon ſuſpected of Hereſy, as alſo againſt one both ſuſpected and defamed.*

Direct. p. 3. n. 161, 162. com. 40. WHEN a Perſon accuſed of Hereſy is found to be only ſlightly ſuſpected of it, he is conſidered either as ſuſpected publickly or privately. If he is publickly ſuſpected, this was formerly the Manner of his Abjuration. On the preceding Lord's Day the Inquiſitor proclaims, that on ſuch a Day he will make a Sermon concerning the Faith, commanding all to be preſent at it. When the Day comes, the Perſon to abjure is brought to the Church, in which the Council hath determined that he ſhall make his Abjuration. There he is placed upon a Scaffold, erected near the Altar, in the Midſt of the People, and is not allowed to ſit, but ſtands on it that all may ſee him, bare-headed, and with the Keepers ſtanding round him. The Sermon being made on the Maſs, to the People and Clergy there preſent, the Inquiſitor ſays publickly, that the Perſon there placed on the Scaffold is ſuſpected, from ſuch and ſuch Appearances and Actions, of the Hereſy that hath been refuted in the publick Sermon, and that therefore 'tis fit that he ſhould purge himſelf from it, by abjuring it as one ſlightly ſuſpected. Having ſaid this, a Book of the Goſpels is placed before him, on which laying his Hands he abjures his Hereſy. In this Oath he not only ſwears that he holds that Faith which the *Roman* Church believes, but alſo that he abjures every Hereſy

resy that extols it self against the holy *Roman* and Apostolick Church, and particularly the Heresy of which he was slightly suspected, naming that Heresy: And that if he shall do any of the aforesaid things for the future, he willingly submits to the Penalties appointed by Law to one who thus abjures, and is ready to undergo every Penance, as well for the things he hath said and done, as for those concerning which he is deservedly suspected of Heresy, which they shall lay on him, and that with all his Power he will endeavour to fulfill it. After this Abjuration the Inquisitor says to him, *Son, Thou hast purged away by this Abjuration, the Suspicion, which, not without Cause, we entertained of you. Henceforth take heed to your self, that you don't fall into this abjured Heresy; for altho' if you repent, you would not be delivered over to the secular Arm, because you have abjured as one slightly suspected only, and not vehemently, yet you would be much more severely punished than if you had not abjured, and instead of being slightly suspected, would become vehemently so, and made to abjure as such. And if you should fall again, you would suffer the Punishment due to relapsed Persons, and be delivered over without Mercy to the secular Court, to be punished with Death.*

If he hath not been publickly suspected, he abjures privately after the same Manner in the Episcopal Palace, or Inquisitors Hall. 'Tis now the Custom for slightly suspected Persons to make all their Abjurations in private, whether the Fact be publick or not. Afterwards he is injoin'd Penance for what he hath committed, and upon Account of which he was thus suspected.

If he is vehemently suspected, he is placed in like Manner upon a Scaffold, *n.* 166. & and after he hath taken his Oath upon the Gospels, his Abjuration is deli- *seq. com.* vered him in Writing to read before all the People if he can. If he can't 41. read, the Notary, or some Religious, or Clergyman reads it by Sentences, pausing between each till the other hath repeated it after him, and so on till the whole Abjuration is gone thro'. In this Abjuration he submits himself to the Punishments due to Relapses, if he ever after falls into the Heresy he hath abjured. After the Abjuration is made, the Bishop admonishes him, that if ever hereafter he doth, or says any Thing by which it can be proved, that he hath fallen into the Heresy he hath abjured, he will be delivered over to the secular Court without Mercy. Then he injoins him Penance, and commands him to observe it, adding this Threatning, that otherwise he will become a Relapse, and may, and ought to be judged as an Impenitent. However, suspected Persons, whether it be slightly or vehemently, are not condemned to wear Crosses, nor to perpetual Imprisonment, because these are the Punishments of penitent Hereticks; tho' sometimes they are ordered to wear for a while the *Sambenito*, according to the Nature of their Offence. Ordinarily they are injoin'd to stand on certain holy Days in the Gates of such and such Churches, holding a burning Taper of such a Weight in their Hands, and to go a certain Pilgrimage; sometimes also they are imprisoned for a while, and afterwards disposed of as is thought proper.

" Torture, either confess, or I will order you to the Torture, frightening " him by this Means as much as he can, upon hearing of which he makes " his Confession, in such a Case the Confession is not said to be made thro' " Fear of Torments, because the Terror it self is but slight.

But if he persists in his Confession, owns his Fault, and asks Pardon of the Church, he is condemned as guilty of Heresy by his own Confession, but as penitent. But if he obstinately persists in Heresy, he is condemned, and delivered over to the secular Arm to be punished with Death. If the accused Person is found to have fallen into Heresy, or there is otherwise Evidence proved against him, upon account of which he is obliged to abjure, as lightly or vehemently suspected of Heresy, he must not be tortured on this Account; but if besides this he denies some Things not sufficiently proved, and there be Proofs sufficient to put him to the Question, and he accordingly is tortured, but confesses nothing, he is not to be absolved, but is to be proceeded against according to the Things proved, and must be commanded to abjure either as suspected, or found guilty, as the Merits of the Process require. Or if he confesses any Thing by Torture, he must be forced also to abjure it.

CHAP. XXX.

How the PROCESS *is ended against a Person suspected of Heresy, as also against one both suspected and defamed.*

Direct. p. 3. n. 161, 162. com. 40.

WHEN a Person accused of Heresy is found to be only slightly suspected of it, he is considered either as suspected publickly or privately. If he is publickly suspected, this was formerly the Manner of his Abjuration. On the preceding Lord's Day the Inquisitor proclaims, that on such a Day he will make a Sermon concerning the Faith, commanding all to be present at it. When the Day comes, the Person to abjure is brought to the Church, in which the Council hath determined that he shall make his Abjuration. There he is placed upon a Scaffold, erected near the Altar, in the Midst of the People, and is not allowed to sit, but stands on it that all may see him, bare-headed, and with the Keepers standing round him. The Sermon being made on the Mass, to the People and Clergy there present, the Inquisitor says publickly, that the Person there placed on the Scaffold is suspected, from such and such Appearances and Actions, of the Heresy that hath been refuted in the publick Sermon, and that therefore 'tis fit that he should purge himself from it, by abjuring it as one slightly suspected. Having said this, a Book of the Gospels is placed before him, on which laying his Hands he abjures his Heresy. In this Oath he not only swears that he holds that Faith which the *Roman* Church believes, but also that he abjures every Heresy

resy that extols it self against the holy *Roman* and Apostolick Church, and particularly the Heresy of which he was slightly suspected, naming that Heresy: And that if he shall do any of the aforesaid things for the future, he willingly submits to the Penalties appointed by Law to one who thus abjures, and is ready to undergo every Penance, as well for the things he hath said and done, as for those concerning which he is deservedly suspected of Heresy, which they shall lay on him, and that with all his Power he will endeavour to fulfill it. After this Abjuration the Inquisitor says to him, *Son, Thou hast purged away by this Abjuration, the Suspicion, which, not without Cause, we entertained of you. Henceforth take heed to your self, that you don't fall into this abjured Heresy; for altho' if you repent, you would not be delivered over to the secular Arm, because you have abjured as one slightly suspected only, and not vehemently, yet you would be much more severely punished than if you had not abjured, and instead of being slightly suspected, would become vehemently so, and made to abjure as such. And if you should fall again, you would suffer the Punishment due to relapsed Persons, and be delivered over without Mercy to the secular Court, to be punished with Death.*

If he hath not been publickly suspected, he abjures privately after the same Manner in the Episcopal Palace, or Inquisitors Hall. 'Tis now the Custom for slightly suspected Persons to make all their Abjurations in private, whether the Fact be publick or not. Afterwards he is injoin'd Penance for what he hath committed, and upon Account of which he was thus suspected.

If he is vehemently suspected, he is placed in like Manner upon a Scaffold, *n.* 166. & and after he hath taken his Oath upon the Gospels, his Abjuration is deli- *seq. com.* vered him in Writing to read before all the People if he can. If he can't 41. read, the Notary, or some Religious, or Clergyman reads it by Sentences, pausing between each till the other hath repeated it after him, and so on till the whole Abjuration is gone thro'. In this Abjuration he submits himself to the Punishments due to Relapses, if he ever after falls into the Heresy he hath abjured. After the Abjuration is made, the Bishop admonishes him, that if ever hereafter he doth, or says any Thing by which it can be proved, that he hath fallen into the Heresy he hath abjured, he will be delivered over to the secular Court without Mercy. Then he injoins him Penance, and commands him to observe it, adding this Threatning, that otherwise he will become a Relapse, and may, and ought to be judged as an Impenitent. However, suspected Persons, whether it be slightly or vehemently, are not condemned to wear Crosses, nor to perpetual Imprisonment, because these are the Punishments of penitent Hereticks; tho' sometimes they are ordered to wear for a while the *Sambenito*, according to the Nature of their Offence. Ordinarily they are injoin'd to stand on certain holy Days in the Gates of such and such Churches, holding a burning Taper of such a Weight in their Hands, and to go a certain Pilgrimage; sometimes also they are imprisoned for a while, and afterwards disposed of as is thought proper.

p. 192. *Gonsalvius* gives us some Instances of these Punishments. "There was at "*Seville* a certain poor Man, who daily maintained himself and his Family "by the Sweat of his Brows. A certain Parson detained his Wife from him "by Violence, neither the Inquisition nor any other Tribunal punishing this "heinous Injury. As the poor Man was one Day talking about Purgatory "with some other Persons, of his own Circumstances, he happened to say, "rather out of rustick Simplicity, than any certain Design, that he truly had "enough of Purgatory already, by the rascally Parson's violently detaining "from him his Wife. This Speech was reported to the good Parson, and "gave him an Handle to double the poor Man's Injury, by accusing him to "the Inquisitors, as having a false Opinion concerning Purgatory. And "this the holy Tribunal thought more worthy of Punishment than the Par-"son's Wickedness. The poor Wretch was taken up for this trifling Speech, "kept in the Inquisitors Jayl for two whole Years, and at length being "brought in Procession, was condemned to wear the *Sambenito* for three "Years in a private Jayl; and when they were expired, to be dismissed, or "kept longer in Prison, as the Lords Inquisitors should think fit. Neither "did they spare the poor Creature any thing of his little Substance, tho' "they did his Wife to the Parson, but adjudged all the Remains of what he "had after his long Imprisonment to the Exchequer of the Inquisition.

p. 195. "In the same Procession there was also brought forth a reputable Citizen "of *Seville*, as being suspected of *Lutheranism*, without his Cloak and his "Hat, and carrying a Wax Taper in his Hand, after having exhausted his "Purse of 100 Ducats towards the Expences of the holy Tribunal, and a "Year's Imprisonment in the Jayl of the Inquisition, and having abjured as "one vehemently suspected, only because he was found to have said, that "those immoderate Expences, and on these Accounts the *Spaniards* are pro-"digiously extravagant, which were laid out in erecting those large Paper "or Linen Buildings, which the common People corruptly call Monuments, "to the Honour of Christ now in Heaven upon *Holy Thursday*, and also those "which were expended on the Festival of *Corpus Christi*, would be more ac-"ceptable to God, if they were laid out upon poor Persons, or in placing

p. 196. "out to good Persons poor Orphan Girls. Two young Students added to "the Number in that Procession. One because he had written in his Pocket-"Book some Verses made by a nameless Author, so artificially, as that the "same Words might be interpreted so as to contain the highest Commenda-"tion of or Reflection upon *Luther*. Upon this Account only, after two "Years Imprisonment, he was brought forth in Procession, without his Hat "and Cloak, carrying a Wax Taper, after which he was banished for three "Years from the whole Country of *Seville*, made to abjure as lightly suspect-"ed, and punished with a Fine. The other underwent the same Censure, "only for transcribing the Verses for their artful Composition, excepting "only that he commuted his Banishment for 100 Ducats towards the Ex-"pences of the holy Tribunal."

If

If he is violently suſpected, altho' it may be that he is no Heretick, yet by the Conſtruction of the Law he is accounted one, and judged as ſuch. What this Judgment is, ſhall be hereafter explained.

If he is found ſuſpected of Hereſy, and alſo defamed, he is condemned firſt to purge himſelf by his Compurgators, and after he hath thus purged himſelf as a defamed Perſon, he muſt abjure as one ſuſpected of Hereſy, whether it be lightly, vehemently, or violently, according to the Manner in which ſuch Perſons are dealt with, and he is injoined Penance, heavier or lighter, according as his Suſpicion is greater or leſs. When the Sentence is pronounced, and committed to Execution, it may be diſpenſed with, mitigated, or commuted, as the Affair, or the Amendment and Humility of the Penitent deſerves it.

[What the Manner is of proceeding at this Day in the Inquiſition general at *Rome*, againſt Perſons ſuſpected of Hereſy, we have a moſt clear Inſtance, in the Sentence pronounced againſt *Galileus Galilei*, a famous Aſtronomer, becauſe he taught, that the Sun ſtood immovable in the Midſt of the Univerſe, and that the Earth moved round it as about its proper Center. I have thought it worth while to tranſcribe it here intire, that it may appear, that Opinions purely Aſtronomical, and that have nothing to do with Religion, and which can neither be of any Advantage or Diſſervice to Piety, which ſoever ſide of the Queſtion is defended, are a ſufficient Argument to the *Roman* Inquiſitors, to render any one vehemently ſuſpected of Hereſy, after the Prelates of that Church have once determined on one ſide, and to injoin him a ſolemn Abjuration, which it ſelf is a very grievous Puniſhment in the Inquiſition. The Sentence is thus:

" We *Gaſpar Borgia*, of the Title of *Saincte Croix de Hieruſalem.*
" Friar *Felix Centino d'Aſcoli*, of the Title of St. *Anaſtaſia.*
" *Guido Bentivoglio*, of the Title of St. *Mary del Populo.*
" Friar *Deſiderius Seaglia di Cremona*, of the Title of St. *Charles.*
" Friar *Antony Barberini*, called *Meſroy.*
" *Lewis Zacchia*, of the Title of St. *Peter*, in *Vinculis*, called St. *Sixto.*
" *Berlingerius Gypſius*, of the Title of St. *Auſtin.*
" *Fabritius Veroſpius*, called *Presbyter*, of the Title of St. *Lawrence*, *in pane* " *& perna.*
" *Franciſcus Barberini*, of St. *Laurence*, in *Damaſo*, and
" *Martius Ginettus*, of the Title of St. *Maria Nuova*, Deacons, by the " Mercy of God, Cardinals of the holy *Roman* Church, ſpecially deputed " by the holy Apoſtolick See, to be Inquiſitors againſt heretical Pravity " throughout the whole Chriſtian Republick.

" Whereas you *Galileus*, Son of the late *Vincent Galileus* of *Florence*, aged " Seventy, were informed againſt in the Year 1615. in this holy Office, " that you maintained as true a certain falſe Doctrine, held by many, *viz.* " that the Sun was in the Center of the World, and immovable, and that " the Earth moved even with a daily Motion. Likewiſe that you have had " certain Scholars, whom you have taught the ſame Doctrine. Likewiſe

" that you have kept up a Correspondence with certain *German* Mathemati-
" cians concerning the same. Likewise that you have published certain
" Letters concerning the solar Spots, in which you have explained the
" same Doctrine as true, and that you did answer the Objections, which in
" several Places were made against you, drawn from the holy Scripture, by
" glossing the said Scripture according to your own Sense, and finally, where-
" as there hath been shewn us a Copy of a Writing, under the Form of a
" Letter, which is reported to be written by you, to one who was formerly
" your Scholar, in which you followed the Hypotheses of *Copernicus*, contain-
" ing certain Propositions contrary to the true Sense and Authority of the
" holy Scripture.

" This holy Tribunal therefore being willing to provide against the Incon-
" veniencies and Dangers which have proceeded and increased upon this Ac-
" count to the Ruin of the holy Faith: By the Command of the said *N.* and of
" the most eminent Lords the Lords Cardinals of this supream and universal In-
" quisition, two Propositions concerning the Fixedness of the Sun, and the Mo-
" tion of the Earth have been thus qualified by the Qualificator Divines, *viz.*

" *That the Sun is in the Center of the World, and unmovable with a local*
" *Motion, is an absurd Proposition, false in Philosophy, and formally heretical,*
" *because 'tis expresly contrary to the holy Scripture.*

" *That the Earth is not the Center of the World, nor immovable, but moves*
" *even with a daily Motion, is likewise an absurd Proposition, and false in*
" *Philosophy, and, theologically considered, at least erroneous in the Faith.*

" But as it pleased us in the mean while to proceed kindly with you, it was
" decreed in the sacred Congregation, held before our Lord *N. Feb.* 25. *An.*
" 1616. that the most eminent Lord Cardinal *Bellarmine* should command
" you, that you should entirely depart from the aforesaid false Doctrine;
" and in case you should refuse to obey him, you should be commanded by
" the Commissary of the holy Office, to forsake the said Doctrine, and that
" you should not teach it to others, nor defend it, nor treat concerning it;
" and that if you would not submit to this Order you should be put in Jayl;
" and in Execution of the said Decree, you were commanded by the said
" Commissary of the holy Office, for the Time being, on the Day follow-
" ing in the Palace, before the aforesaid most eminent Lord Cardinal *Bellar-*
" *mine*, after you had been kindly admonished by the said Lord Cardinal, in
" the Presence of the Notary and Witnesses, that you should wholly desist
" from the said false Opinion; and that it should not be lawful for you
" for the future, to defend it, or by any Means to teach it, neither by Word
" nor Writings: And upon promising Obedience you were dismissed.

" And that so pernicious a Doctrine might be wholly removed, and should
" not spread any farther, to the great Damage of the Catholick Truth, there
" came forth a Decree from the sacred Congregation, of an Index, in which the
" Books treating of the said Doctrine were prohibited, which Doctrine was
" declared

" declared to be false, and altogether contrary to the holy and divine Scripture ;
" and whereas at length there appeared this Book published at *Florence* the
" Year next ensuing, the Title of which shewed that you were the Author of
" it, because it ran thus, *Dialogo di Galileo Galilei delle duo massime sisteme del*
" *mundo, Tolomeico & Copernicano:* And whereas the sacred Congregation at
" the same Time knew, that by the Impression of the aforesaid Book, the
" false Opinion concerning the Motion of the Earth, and the Fixedness
" of the Sun, did daily gain Ground, the aforesaid Book was diligently con-
" sidered, and there plainly appeared therein a Disobedience to the aforesaid
" Command, of which you had Intimation, because, in the said Book, you de-
" fended the aforesaid Opinion already condemned, and declared to be so in
" your own Presence, inasmuch as you endeavour by various round about Me-
" thods in the said Book, to persuade Persons, that you leave the said Opinion
" as undecided, and yet greatly probable ; which is really likewise a very
" grievous Error, because no Opinion can by any Means be probable, which
" hath been declared and determined to be contrary to the divine Scripture.

" Wherefore, by our Command, you are cited to this holy Office, in
" which being examined upon Oath, you have owned the said Book as writ-
" ten and printed by you : Likewise you have confessed, that about ten or
" twelve Years ago you began to write the said Book, after you had received
" the above Command : Likewise that you desired Licence to publish it,
" without signifying to the Persons who gave you such Licence, that you
" were commanded not to hold, defend, or by any Means to teach such Do-
" ctrine.

" You have likewise confessed, that the aforesaid Book is so composed in
" several Places, as that the Reader may think that the Arguments brought
" for the false Side of the Question are so laid down, as by their Strength
" rather to convince the Understanding, than to be easily capable of being
" answered ; excusing your self that you have ran into an Error, so foreign
" as you have declared from your Intention, because you have wrote by way
" of Dialogue, and upon Account of that natural Pleasure which every one
" takes in his own Subtleties, and in shewing himself more shrewd than the
" Generality of Men, in finding out ingenious Arguments that have the Ap-
" pearance of Truth, even tho' it be only in Favour of false Propo-
" sitions.

" And whereas there was assigned to you a convenient Term for your ma-
" king your Defence, you produced a Certificate under the Hand of the
" most eminent Lord Cardinal *Bellarmine*, procured, as you said, by you,
" that you might defend your self from the Calumnies of your Enemies, who
" reported that you had abjured, and was punished by the holy Office, in
" which Testimonial 'tis declared that you had not abjured, neither been
" punished, but only that you had been acquainted with the Declaration
" made by our Lord, and published by the sacred Congregation of the
" Index in which 'tis contained, that the Doctrine of the Earth's Mo-
" tion, and the Sun's Fixedness is contrary to the holy Scripture, and there-

" fore

" fore ought neither to be defended or maintained. And in as much as there-
" in there is no Mention of two Particulars contained in the Command gi-
" ven you, *viz. Docere, to teach*; and *quovis modo, by any Means*; 'tis to
" be believed, that in a Course of fourteen or sixteen Years, those Particu-
" lars might have been forgotten by you, and that on this Account you con-
" cealed the Injunction you had been served with, when you demanded Li-
" cence to print your Book, and that you said all this not to excuse your Error,
" but that it might be imputed to vain Ambition rather than to Malice. But
" this very Testimonial produced in your Defence, hath made your Cause
" rather worse, for as much as therein it is said, that the aforesaid Opinion is
" contrary to holy Scripture, and yet you have dared to treat of it, to de-
" fend it, and persuade others 'tis probable. Neither can you receive any
" Advantage by the Licence you artfully and fraudulently procured, because
" you did not signify the Injunction you had received.

" And whereas it appears to us, that you have not declared to us the whole Truth concerning your Intention, we have judged that 'tis necessary to proceed to a rigorous Examination of you, in which, without any Prejudice to those Things which you have confessed, and which have been produced against you, concerning your said Intention, you have answered in a Catholick Manner. And therefore upon seeing and maturely considering the Merits of this your Cause, together with your aforesaid Confessions and Excuses, and all other Things by Law to be seen and considered, we have proceeded against you to the underwritten definitive Sentence.

" Calling therefore upon the most holy Name of our Lord Jesus Christ, and his most glorious Mother *Mary*, ever a Virgin, we do by this our definitive Sentence, which, sitting on our Tribunal, we pronounce in these Writings, with the Advice and Judgment of the Reverend Masters, Doctors of Divinity, and both Laws, our Consultors, concerning the Cause and Causes now depending before us, between the magnificent *Carolus Sincerus*, Doctor of both Laws, and Procurator of the Exchequer of this holy Office, on one Part, and you *Galileus Galilei*, the Criminal here under Inquisition, by this present written Process, examined, and confessed as above, on the other Part, say, judge and declare that you the aforesaid *Galileus* have, upon account of those Things which are produced in the written Process, and which you have confessed as above, render'd your self vehemently suspected of Heresy to this holy Office; *i. e.* that you have believed and held a Doctrine false, and contrary to the sacred and divine Scriptures, *viz.* that the Sun is the Center of the Orb of the Earth, and doth not move from the East to the West, and that the Earth moves, and is not the Center of the World, and that this may be held and defended as a probable Opinion, after it hath been declared and determined to be contrary to the sacred Scripture; and consequently that you have incurred all the Censures and Penalties appointed and promulgated by the sacred Canons, and other general and particular Constitutions, against such Offen-

" ders,

"ders; from which 'tis our Pleasure that you should be absolved, provided that you do first, with a sincere Heart, and Faith unfeigned, abjure, curse, and detest before us the aforesaid Errors and Heresies, and every other Error and Heresy, contrary to the Catholick and Apostolick *Roman* Church, in that Form which shall be exhibited to you by us.

"But least your grievous and pernicious Error and Transgression should go altogether unpunished, and that you your self may be render'd more cautious for the future, and that you may be an Example to others, that they may abstain from such Crimes, we decree that the Book of Dialogues of *Galileus Galilei*, shall be prohibited by a publick Edict, and we condemn you formally to be imprisoned in this holy Office for a Time determinable at our Pleasure; and we enjoin you, under the Title of a salutary Penance, that for the three Years ensuing you repeat, once in a Week, the seven penitential Psalms; reserving to our selves the Power of moderating, changing, or wholly, or in part removing the aforesaid Penalties and Penances.

"And thus we say, pronounce, and by our Sentence declare, ordain, condemn and reserve in this, and every other better Manner and Form, which we can, and ought to do by Law.

Thus we the under-written Cardinals pronounce.

F. Cardinal *d'Ascoli*.
G. Cardinal *Bentivoglio*.
F. Cardinal *de Cremona*.
Fr. Cardinal *a Mefroy*.
B. Cardinal *Gypsius*.
F. Cardinal *Verospius*.
M. Cardinal *Ginettus*.

The Abjuration of *Galileus*.

I Galileus, *Son of the late* Vincentius Galileus, *a* Florentine, *aged Seventy, being here personally upon my Trial, and on my Knees before you, the most Eminent and Reverend the Lords Cardinals, Inquisitors General of the universal Christian Common-wealth, against heretical Pravity, having before my Eyes the most holy Gospels, which I touch with my proper Hands, do swear that I always have believed, and do now believe, and by the Help of God, hereafter will believe all that, which the holy Catholick and Apostolick* Roman *Church doth hold, preach and teach. But because, after I had been juridically enjoined and commanded by this holy Office, that I should wholly forsake that false Opinion, which holds, that the Sun is the Center, and immovable, and that I should not hold, defend, nor by any Manner, neither by Word or Writing, teach the aforesaid false Doctrine, and after it was notified to me that the aforesaid Doctrine was contrary to the holy Scripture, I have written and printed a Book, in which I treat of the said Doctrine already condemned, and produce Reasons of great Force in Favour of it, without giving any*

Answer to them, I am therefore judged by the holy Office as vehemently suspected of Heresy, viz. *that I have held and believed that the Sun is the Center of the World, and immovable, and that the Earth is not the Center, but moves.*

Being therefore willing to remove from the Minds of your Eminences, and of every Catholick Christian, this vehement Suspicion legally conceived against me, I do with a sincere Heart and Faith unfeigned, abjure, curse and detest the above-said Errors and Heresies, and in general every other Error and Sect contrary to the aforesaid holy Church; and I swear, that for the future, I will never more say or assert, either by Word or Writing, any Thing to give Occasion for the like Suspicion; but that if I shall know any Heretick, or Person suspected of Heresy, I will inform against him to this holy Office, or to the Inquisitor or Ordinary of the Place in which I shall be. Moreover, I swear and promise, that I will fulfill and wholly observe all the Penances which are, or shall be injoined me by this holy Office. But if, what God forbid, it shall happen that I should act contrary by any Words of mine, to my Promises, Protestations and Oaths, I do subject my self to all the Penalties and Punishments which have been ordained and publish'd against such Offenders, by the sacred Canons and other Constitutions general and particular. So help me God and his holy Gospels, which I touch with my own proper Hands.

I the abovesaid Galileus Galilei *have abjured, sworn, promised and obliged my self as above, and in Testimony of these Things have subscribed with my own proper Hand this present Writing of my Abjuration, and have repeated it Word for Word at* Rome, *in the Convent of* Minerva, *this 22d Day of* July, An. 1633.

I Galileus Galilei, *have abjured as above, with my own proper Hand.*

CHAP. XXXI.

How the PROCESS *against an Heretick confessed, and penitent, ends, and first of* ABJURATION.

Direct. p. 3. n. 188. com. 44.

IF any Heretick is informed against, and upon Oath confesses his Heresy judicially before the Bishop or Inquisitor, but professes, that upon Information of the Bishop or Inquisitor he will depart from it, return to the Bosom of the Church, and abjure that and every other Heresy, he is not deliver'd to the secular Arm, but differently punished according to the Heinousness of the Crime. For in the first Place all such Persons are compelled publickly to abjure their Heresy in the Church before all the People; but they are not permitted to excuse themselves, or in any manner to testify their Innocence, lest the People should be offended by thinking him unjustly condemned. Before the Person who is to abjure, there is placed the Book of the Gospels, and then he puts off his Hat, falls on his Knees, and putting his Hands on the Book, reads, if he knows how to read, his Abjuration; if he can't read, the Notary or some religious Person or Clergyman reads for him,

and making a Pause, the Person abjuring repeats what is read; then the Notary goes on, and the Abjurer always repeats his Words, with a loud Voice, so as to be heard by all, till the whole Abjuration is read over even to the End.

Formerly, before Persons violently suspected of Heresy abjured, the Bishop or Inquisitor used thus to address to him. *My Son, we violently suspect you of Heresy, upon account of those Things 'tis declared you have committed, upon account of which you are by Law to be condemned as an Heretick. Therefore consider and attend to what I say to you. If you will so depart from the said Heresy or Heresies, as to be willing now here publickly to abjure them, and patiently to undergo the Penance which we enjoin you, the Church and we, as the Vicars of Christ, will receive you to Mercy. But we will enjoin you a Penance, which you may well bear, and absolve you from the Sentence of Excommunication, which you were under, that you may be saved, and have Glory in the future World. But if you will not abjure, nor submit to Penance, we will immediately deliver you to the secular Arm, and so you will destroy together both Body and Soul. Which therefore will you chuse, to abjure and be saved, or to refuse to abjure and to be damned?* If he says, I will not abjure, and persists in it, he is delivered over to the secular Court, as shall be afterwards shewn. But if he says that he will abjure, the Abjuration is made according to the Forms prescribed. But now the Bishop uses no such Discourse, but before the Criminal is brought upon the Scaffold, all Methods are diligently made use of for his Conversion, and if he be truly converted, he will abjure without any such foregoing Admonition.

This Abjuration is injoined all who return from Heresy, and even all *Direct. p. 3. com. 40.* suspected upon any Account of Heresy; nor is any one, tho' otherwise privileged, and of great Dignity, excepted. Even Boys of fourteen, and Girls of twelve Years old, are compelled to it, according to the Decree of the Council of *Tholouse*, An. 1229. cap. 11. *Let all Persons, as well Men as Women, the Males from fourteen Years old and upwards, and the Females from twelve, abjure every Heresy extolling it self against the holy and Catholick Church of* Rome, *and the Orthodox Faith, under whatsoever Name it be ranked.* The Council of *Biterre* hath decreed the same. And this perhaps is the same which is cited in a Book concerning the Form of proceeding against Hereticks. *And that by the Help of the Lord Heresy may be the better extirpated, and the Faith sooner planted in the Earth, cause the Statutes and Laws published on these Accounts by the Apostolick See, and the Legates and Princes thereof, to be most fully observed. Farthermore, cause all Persons, Males and Females, the Males from fourteen, the Females from twelve Years old and upwards, to abjure every Heresy, and to swear that they will keep the Faith, and defend the Catholick Church, and persecute Hereticks, as is above more fully and largely contained, in Reference to them, in the Oath which those who are to be reconciled must make, writing down the Names of all of them, as well in the Acts of the Inquisition, as their respective Parishes, and if any present shalt not take such Oath within 15 Days after their Return, let them be accounted suspected of Heresy. Take Care also that this universal Abjuration be performed as soon as you can, either by your selves, or your Notaries or Writers, or by*

other Ecclesiastical Persons, whom you shall think fit to entrust with the Affair, causing also the Counts, Barons, Rulers and Consuls of Cities and other Places, to swear, that when it shall be required of them, they will faithfully and effectually assist the Church against Hereticks and their Accomplices, according to their Office and Power, and bona fide, *endeavour to exterminate with all their Might, out of the Places subject to their Jurisdiction, all such Persons as shall be marked for Hereticks by the Church. And whoever shall relapse after such Abjuration, and shall not observe and do the Penances injoined them, let them suffer the Punishment due to relapsed Persons.*

But the Instruction of *Valadolid*, made *An.* 1488. *c.* 12. says thus: *Likewise they have appointed, that such who are not come to the Age of Discretion, as well Males as Females, shall not be obliged to abjure publickly, till after the said Years of Discretion, which is the twelfth Year of Women, and the fourteenth of Men. And in this Sense is to be understood the Statute of the* Seville *Instructions, which regulates this Matter. And when they shall have exceeded the aforesaid Years, let them abjure what they have offended in when they were of younger Years, if they have been capable of Deceit.* From whence it may be collected that Boys and Girls might abjure before this Age, tho' not publickly. Finally, the Council of *Narbonne* hath thus decreed, cap. 6. *Cause all Persons to confess and abjure their Faults publickly in an Assembly of the Clergy and People, and to swear according to what is more fully contained in the Apostolick Commands, and in the Statutes of our Lord the Pope of* Rome, *unless where the Slightness of the Fault, and the Enormity (possibly it should have been read the Smallness) of the Scandal, should be thought in Reason to deserve an Abatement of this Rigour. And as to every one of them, let there be drawn up publick Instruments containing the Crimes, Abjurations, Promises and Penances of the said Persons, lest the Truth, long concealed, but now so wonderfully and mercifully discovered, should farther perish or disappear.*

If the Criminal knows how to write, he must subscribe his Abjuration; if he doth not know how to write, or can't, the Inquisitor and Notary must subscribe for him. This is prescribed by the Inquisitors of *Spain*, by the *Madrid* Instruction, *An.* 1561. c. 42. *Let the Abjuration which the Criminals make, be put at the End of the Sentence, and the Pronunciation of it, which the Criminals shall subscribe, if they know how to write, putting their Names to it; but if they know not how to write, then one of the Inquisitors and the Notary shall subscribe for them.*

When the Abjuration is made, because every Heretick is excommunicated, they are absolved from Excommunication upon this Condition, *viz.* if they return to the Unity of the Catholick Faith with a true Heart and Faith unfeigned, and observe the Commands injoined them; which is expresly added, that if they should not observe them, it may appear that they were not absolved.

Those who commit heretical and apostate Facts, must be thus reconciled according to the Practice received in the Tribunal of the Inquisition. If they voluntarily appear and say, that they did not believe they ought to do so, but retained the Faith in their Heart, then they abjure as vehemently suspected, and have other salutary Penances injoined them. If they say that they both did

did ſo, and believed that they ought to do ſo, then they abjure as formally Hereticks or Apoſtates, and are more grievouſly puniſhed, eſpecially if they have committed heretical or apoſtate Actions voluntarily, or without being compelled by Fear, or by a ſlight Occaſion of Fear. If they do not appear voluntarily, and yet confeſs heretical and apoſtate Actions, but deny the evil Intention, then they are to be tortured upon ſuch Intention, that it may be known whether they have really believed ſo or not; and if after the legal Torture they perſiſt in the negative, ſaying, they had no ill Intention, then they likewiſe abjure as vehemently ſuſpected. As to thoſe who have committed ſuch Things thro' grievous Fear, 'tis determined that 'tis likely they had no evil Intention. But if they confeſs the evil Intention or Error of the Mind, then they are compelled to abjure as formal Hereticks or Apoſtates, upon their being willing to return to the Unity of the Church, and are farther condemned as converted Hereticks to other Puniſhments and Penances, which we ſhall hereafter deſcribe. But in order to their being more grievouſly or mildly puniſhed, the Nature of that Fear they were under is conſidered, and the Circumſtances of the Perſon offending; as whether he was a Youth, or a Man, learned or unſkilful, one of the Laity or Clergy, or Religious, and the like Things which uſually leſſen or encreaſe the Offences. There are alſo others who pronounce heretical Words which have no Excuſe, *viz.* in Jeſt, or Anger, or mere Simplicity, on which Offenders the Inquiſitors may lay pecuniary Mulcts.

As to ſuch Facts in which there appears nothing of an Infidel Right, and which therefore only render a Perſon ſuſpected, but don't demonſtrate him to be an Heretick, no one is proceeded againſt as an Heretick, or Believer of Hereticks, upon account of them, but only as a ſuſpected Perſon; becauſe ſuch Facts are ſometimes committed thro' carnal Affection, ſometimes thro' the Entreaties of Friends, ſometimes alſo thro' Corruption by Money. *Lucern. Inquiſ voc.* Pœna pecun.

The Form of Abjuration formerly uſed in the Inquiſition of *Tholouſe*, oftentimes occurs in the Book of Sentences. Herein they abjure *every Hereſy extolling it ſelf againſt the Catholick Faith of our Lord Jeſus Chriſt, and the holy* Roman *Church, and all Belief of Hereticks of every condemned Sect whatſoever, by whatſoever Names they are called, and all favouring, receiving and defending of them, and Communication with them, under the Puniſhment due by Law to thoſe who relapſe into the Hereſy they have judicially abjured.* They moreover promiſe and ſwear, *that they will purſue, and reveal and diſcover Hereticks, and their Believers and Favourers, and Receivers and Defenders, and who fly for Hereſy, whenſoever and whereſoever they know them to be, or any one of them; and that they will obey and be obedient, that they will hold and keep, and defend the Catholick Faith of our Lord Jeſus Chriſt, which the holy Church of* Rome *preaches and obſerves; and that they will obey and be obedient to the Commands of the Church, and the Inquiſitors and their Succeſſors, and that they will receive, and, according to their Power, fulfil and perfect the Penance injoined them, and that they will never fly nor abſent themſelves thro' Contumacy and Wilfulneſs.* This Form in another Place is a little alter'd. *fol.* 100. *fol.* 149.

In

In Ecclesiastical History we find two remarkable Forms of Abjuration prescribed to certain famous Doctors by the Church of *Rome*. The one is that of *Berengarius*, the other that of *Jerom* of *Prague*.

Berengarius abjured in these Words. *I* Berengarius, *an unworthy Deacon of the Church of St.* Maurice *of* Angiers, *acknowledging the true and Apostolick Faith, do anathematise every Heresy, and particularly that for which I have hitherto been defamed; which endeavours to prove, that the Bread and Wine placed upon the Altar are, after Consecration, only a Sacrament, and not the true Body and Blood of our Lord Jesus Christ, and cannot be sensibly, but only sacramentally, handled or broken by the Hands of the Priests, nor chewed to Pieces by the Teeth of the Faithful. But I consent to the holy Church of* Rome *and Apostolick See, and with my Mouth and Heart confess that I hold that Faith concerning the Sacrament of the Lord's Table, which our Lord and venerable Pope* Nicholas, *and this holy Synod, by Evangelick and Apostolick Authority, hath delivered to be held and confirmed to me,* viz. *that the Bread and Wine placed on the Altar, are, after Consecration, not only a Sacrament, but also the true Body and Blood of our Lord Jesus Christ, and is broken sensibly, not only sacramentally, but in Truth, by the Hands of the Priests, and chewed by the Teeth of the Faithful, swearing by the holy and consubstantial Trinity, and by these most holy Gospels of Christ. And as to those, who shall go contrary to this Faith, I pronounce them, with their Opinious and Followers, worthy of eternal Damnation. And if I my self shall at any time presume to think or preach any Thing contrary to this, I subject my self to the Severity of the Canons. I have voluntarily subscribed to this, being read over and thro'.*

The Abjuration of *Jerom* of *Prague* is longer. *I* Jerom *of* Prague, *Master of the liberal Arts, acknowledging the true Catholick Church and Apostolick Faith, do anathematise every Heresy, and especially that for which I have hitherto been defamed, and which in former Times* John Wycleff *and* John Huss *have dogmatised and held in their Works, Books, or Sermons to the Clergy and People, for which Reason the aforesaid Persons, with their Opinions and Errors, have been condemned as Hereticks by this Synod of* Constance, *and their aforesaid Doctrine sententially damned, especially in some Articles expressed in the Sentences pronounced against them by this holy Council. I consent also to the holy Church of* Rome, *and the Apostolick See, and this holy Council, and with my Mouth and Heart profess it, in and concerning all Things, and especially concerning the Keys, Sacraments, Orders, Offices and Ecclesiastical Censures, Indulgencies, and Relicts of Saints, and Ecclesiastical Liberty, as also concerning the Ceremonies, and all other Things pertaining to the Christian Religion, even as the Church of* Rome *and Apostolick See, and this holy Council profess; and particularly that most of the aforesaid Articles are notoriously heretical, and long since condemned by the holy Fathers; some of them blasphemous, others erroneous, others scandalous, some of them offensive to pious Ears, and others of them rash and seditious; and the aforesaid Articles have been lately condemned as such by this holy Council, and it hath been forbidden all and singular Catholicks, under Penalty of an Anathema, ever for the future to presume to preach, dogmatise, or to hold the said Articles, or any one of them.*

After

After these Things follows a long Abjuration of a certain triangular Figure used by him, and called the Shield of Faith, and then he goes on. *Besides, that it may appear to all what were the Reasons why I have been reputed to adhere to and favour the said late* John Huss, *I notify by these Presents, that whereas I had often heard him in his Preachings and Schools, I believed him to be a good Man, and to go in nothing contrary to the Traditions of our holy Mother Church and the holy Doctors; yea, as there were certain Articles lately offered to me in this City, laid down by him, and condemned by this holy Council, I did not at first View believe them to be his, at least in that Form: And when I had heard it affirmed by several famous Doctors and Masters in Divinity, that they were his, I desired, for my full Information, that they would shew me the Books of his own Hand-writing, in which the said Articles are said to be contained, which being shewn to me written with his own proper Hand, which I know as well as my own, I found all and singular the said Articles were written by him in that Form in which they were condemned. From whence I have found, and do find, that he and his Doctrine, with their Followers, have been deservedly condemned and rejected as heretical and mad, by the holy Council. And all these Things aforesaid I affirm purely, and without any Reserve, as one who is now fully and sufficiently informed of the aforesaid Sentences pronounced by this holy Council against the Doctrines of the said late* John Wycleff *and* John Huss, *and against their Persons; to which Sentences I do, as a devoted Catholick, in and concerning all Things humbly consent and adhere.*

After this he abjured the Opinion, that Faith was to take place even in the future Life, and concludes thus. *Moreover I swear both by the holy Trinity, and by these most holy Gospels, that I will always, and without Doubt, remain in the Truth of the Catholick Church, and pronounce all those who shall oppose this Faith, together with their Opinions, worthy of eternal Damnation. And if I my self shall at any time, which God forbid, presume to think or preach any Thing to the contrary, I subject my self to the Severity of the Canons, and shall be found obnoxious to eternal Punishment. And this Confession and Writing of my own Profession I do voluntarily offer to this holy general Council, and have subscribed the same with my own proper Hand, and have written all these Things.* This Abjuration was made *September* 15, 1415.

Jerom of *Prague* seems to have been terrified by the Condemnation of *John Huss*, and to have fallen thro' the Infirmity of human Nature. But afterwards he took Courage, and with great Resolution revoked his Abjuration in the Synod, and was, *May* 30, 1416. pronounced, declared, and condemned by the Council of *Constance* as an Heretick, and relapsed into Heresy, excommunicated, and anathematised, and as such deliver'd over to the secular Arm; and being brought to the Stake he suffer'd Death, and endured the severest Torments of the Fire, with a truly heroick Mind.

And in this Manner all Persons are forced to abjure, which the Church of *Rome* pronounces Hereticks, unless they are willing to be delivered over as impenitent Hereticks to the secular Arm or Court, but especially Doctors, whom they call Dogmatists, Dogmatisers, and Arch-hereticks. *Bzovius*, under the Year 1479. §. 9. gives us a famous Instance which hapned in *Spain*.

Peter

Peter de Osma, who read Theological Lectures at *Salamanca*, had publish'd a Book, in which were several Things contained contrary to the Doctrines of the Church of *Rome*. The Arch-Bishop of *Toledo*, then at *Alcala de Henarez*, where he generally resided, did, by Command of Pope *Sixtus*, after having consulted the most learned Men, and well considered the Matter for a long while, condemn his Opinions, and put the Author himself under the Infamy of an *Anathema*, unless he changed his Sentiments. The Sentence was pronounced *June* 23. Pope *Sixtus* confirmed the Sentence of the Arch-Bishop by a Bull, and commanded him, that he should not omit to proceed against the Followers of *Peter de Osma*, as Hereticks, if they should refuse or wickedly defer to abjure this Heresy they are fallen into, or to imitate the said *Peter* abjuring his Errors and repenting, as they had imitated him in his Error.

CHAP. XXXII.

Of the Punishment and wholesome Penances injoined such as abjure.

SUCH who abjure, and after Abjuration are reconciled to the Church, are injoined various Punishments, and, as they call them, wholesome Penances. They are imposed by the Inquisitors at Pleasure. Extra. de hæret. c. *Ad abolendam.* §. *Præsenti.* [And thus the Council of *Narbonne* hath decreed, *Cap.* 5. *This indeed we so injoin, not that you should impose every where, or upon all alike, all the fore-mentioned Penances, but that ye may, according to the Discretion given you of the Lord, so cautiously and providently dispense them, according to the Nature of the Crimes and Persons, Places and Times, and other Circumstances, that whether by punishing or pardoning, the Life of Offenders may be amended, or at least that it may appear who walks in Darkness, who in the Light; who is truly penitent, who feignedly converted; and that no Scandal may arise from hence to true Catholicks, and that Heresy may not be defended or nourished thro' Pretence of Scan-*
p. 3. t. 19. §. 13. *dal, or any other whatsoever.* But, as *Carena* advises, in this Imposition of Punishment the Inquisitors must be careful *always to use Clemency and Mercy, not Cruelty and Severity.* But he adds, *This must be understood with a Grain of Salt,* viz. *that this Clemency must not be shewn to an impenitent Heretick; for after the Inquisitors have used all their Endeavours for his Conversion, they must by no Means mitigate the Punishments of Death, Infamy, and others threatned against him by Law. For as to this, whilst he remains impenitent,* N. B. *the only Instance of true Piety is to be cruel.*] They have also Power of commuting and mitigating them; because this imposing of Penance is not a definitive Sentence, but rather an Injunction, and Command or Precept of Purgation. 'Tis otherwise, when the Inquisitor hath condemned any one as an Heretick, and imposes Penance on him as such, because that is a Punishment determined by the Law, and which

therefore doth not depend on the Pleasure of the Inquisitor, and because by such Condemnation he hath pronounced a definitive Sentence, and so ceases to be a Judge. *Zanchin. de hæret. cap.* 21. And these Penances in general are laid upon any Persons.

Priests and others of the Clergy are not usually injoined publick Penance, both because of the Dignity of their Order, and that the Flock of the Faithful may not be offended. But altho' this is to be observed in smaller Crimes, yet in more heinous ones the Priests are to be compelled to undergo publick Penance, and the rather in the Crime of Heresy, because such Offences in Priests are more heinous than in the Laity. And not only Clergymen and Presbyters are obliged to this publick Penance, but also Bishops, Cardinals and others, howsoever dignified; because all Men are upon an equal Foot in Matters partaining to the Orthodox Faith. Add to this, that heretical Clergymen, returning to the Church, are, after Injunction of Penance, to be deposed, at least by a verbal Degradation, by which they are suspended from the Exercise of their Orders: But of this hereafter. Simanc. *t.* 47. §. 74, 75, 76.

[*Carena* observes particularly concerning Regulars, that when they fall into Crimes relating to this Tribunal, they are usually punished with some peculiar Punishments. These are the Privation of active and passive Votes, of the Office of Preaching, and of hearing Confessions, especially those of Women; that the Sentence of the Inquisitors must be read twice a Year in a Chapter of the Religious and Presence of the Criminal, that they take the last Place in the Quire and Refectory, that they must be whipped by their Religious in a Chapter and Presence of the Notary of the holy Office; and others. But *Carena* adds, these Punishments are to be injoined with great Moderation, Regard being always had to the Heinousness of the Offence, and the Quality of the Offender; but yet in such a Manner, as that the Inquisitors ought to know, that such Punishments are not imposed only on soliciting Confessors, but even upon the Religious who offend otherwise. Hence it happened some Years ago in our Congregation at *Cremona*, by Order of the sacred Congregation, that a certain Regular, who had rashly incurred the Constitutions of *Paul* V. and *Gregory* XV. published upon the Affair of the Conception; was condemned, publickly to revoke some Propositions that were rash, scandalous, and offensive to pious Ears, in the same Place where he had preached them; and was farther deprived of his active and passive Vote, and the Office of Preaching and Lecturing, together with other wholesome Penances. Thus also in a solemn Act of the Faith celebrated in the Kingdom of *Sicily*, Friar *Marcellus de Pratis*, a Religious of the Order of the Minors, was condemned by that most illustrious Tribunal, because he had rashly feigned himself a Saint, impeccable, confirmed in Grace, and had pronounced other scandalous and rash Propositions, to the Gallies for three Years, to be banished for two more into such a Convent of his own Religion as should be assigned him, with this Addition, that he should fast every *Friday* on Bread and Water, eat upon the Ground in the Refectory, walk without his Hat, and sit in the lowest Place p. 3. *t.* 19. §. 11.

in the Quire and Refectory, and be perpetually deprived of his active and passive Vote, and of the Faculty of hearing any Persons Confessions whatsoever.

l. 2. t. 2. c. 15. n. 10. p. 233.

Lewis a Paramo gives us another remarkable Instance of one *Mary* of the Annunciation, Prioress of the Monastery of the Annunciation at *Lisbon*, a Maid of 32 Years old, who had pretended that the Wounds of Christ, by the special Grace and Privilege of God, were imprinted on her, and shewed 32 Wounds made on her Head, representing the Marks of those which were made by our Saviour's Crown of Thorns, and Blood sprinkled on her Hands like a Rose, the Middle of which was like a Triangle, and shewed the Holes of the Nails narrower on one Side than the other. The same were to be seen in her Feet. Her Side appeared as tho' it had been laid open by the Blow of a Lance. When all these Things were openly shewn, it was wonderful to see how they raised the Admiration and Devotion of serious and holy Men, and withal surprized and deceived them; for she did not suffer those pretended Wounds to be seen otherwise than by Command of her Confessor. And that absent Persons might have a great Veneration for her, she affirmed, that on *Thursdays* she put into the Wounds a small Cloth, which received the Impression of five Wounds in Form of a Cross, that in the Middle being the largest. Upon which these Cloths were sent, with the greatest Veneration, thro' the infinite Devotion of the Faithful, to the Pope, and to almost all the most venerable and religious Persons of the whole World. And as *Paramus* then had the Administration of the Causes of Faith in the Kingdom of *Sicily*, he saw several of those Cloths, and the Picture of that Woman drawn to the Life, and a Book written by a Person of great Authority concerning her Life, Sanctity and Miracles. Yea, Pope *Gregory* XIII. himself determined to write Letters to that wretched Creature, to exhort her thereby to persist with Constancy in her Course, and to perfect what she had begun. At last the Imposture was found out, that the Marks of the Wounds were not real, but made with red Lead, and that the Woman's Design was, when she had gained Authority and Credit enough, by her pretended Sanctity, to recover the Kingdom of *Portugal* to its former State, which had legally fallen under the Power of *Philip* II. Upon this the following Sentence was pronounced against her by the Inquisitors of *Lisbon*, *Decemb.* 8. *An.* 1588. First, she was commanded to pass the rest of her Life shut up in a Convent of another Order, that was assigned to her, without the City of *Lisbon*. Likewise, that from the Day of pronouncing the Sentence, she should not receive the Sacrament of the Eucharist for the Space of five Years, three *Easters*, and the Hour of Death excepted, or unless it were necessary to obtain any Jubilee, that should in the mean while be granted by the Pope. Likewise that on all *Wednesdays* and *Fridays* of the whole Year, when the religious Women of that Convent held a Chapter, she should be whipped, whilst the Psalm, *Have Mercy on me, O God*, was reciting. Likewise, that she should not sit down at Table at the Time of Refreshment, but should eat publickly on the Pavement, all being forbidden to

(Margin note beside "Course … found out … Lead": Ibid. t. 3. c. 5. n. 16. p. 303.)

eat any Thing ſhe left. She was alſo obliged to throw her ſelf down at the Door of the Refectory, that the Nuns might tread on her as they came in and went out. Likewiſe, that ſhe ſhould perpetually obſerve the Eccleſiaſtical Faſt, and never more be created an Abbeſs, nor be choſen to any other Office in the Convent where ſhe had dwelt, and that ſhe ſhould be always ſubject to the loweſt of them all. Likewiſe, that ſhe ſhould never be allowed to converſe with any Nun without Leave of the Abbeſs. Likewiſe, that all the Rags marked with Drops of Blood, which ſhe had given out her ſpurious Relicks, and her Effigies deſcribing her, ſhould be every where delivered to the holy Inquiſition; or if in any Place there was no Tribunal of the Inquiſition, to the Prelate, or any other Perſon appointed. Likewiſe, that ſhe ſhould never cover her Head with the ſacred Veil, and that every *Wedneſday* and *Friday* of the whole Year ſhe ſhould abſtain from Meat, and live only on Bread and Water, and that as often as ſhe came into the Refectory, ſhe ſhould pronounce her Crime with a loud Voice in the Preſence of all the Nuns.

He tells us in the ſame Place, that *Michael Piedrola* took upon himſelf for many Years the Name of a Prophet, boaſted of Dreams and Revelations, and affirmed they were revealed to him by a divine Voice. Being convicted of ſo great a Crime, he abjured *de levi*, was for ever forbid the reading of the Bible, and other holy Books, deprived of Paper and Ink, prohibited from writing or receiving Letters, unleſs ſuch only as related to his private Affairs, denied the Liberty of diſputing about the holy Scripture, as well in Writing as in Diſcourſe, and finally, commanded to be thrown into Jayl, and there paſs the Remainder of his Life.]

The common Puniſhment of Hereticks is the Confiſcation of all their Effects; for altho' this Confiſcation is kindly remitted to thoſe who come of their own Accord, and voluntarily confeſs before they are accuſed, yet this Favour is never granted in *Spain*, to thoſe who at length confeſs after they are accuſed and thrown into Priſon, or who perſiſt in their Opinion. And this Confiſcation is made with ſuch Rigour, that the Inquiſition orders the Exchequer to ſeize on not only the Effects of the Perſons condemned, but alſo all others adminiſtred by them, altho' it evidently appears that they belong to others. The Inquiſition at *Seville* gives a remarkable Inſtance of this Kind, which *Gonſalvius* gives us a long Account of, with all its Circumſtances.

" *Nicholas Burton*, an *Engliſhman*, a Perſon remarkable for his Piety, was *p.* 175, &c.
" apprehended by the Inquiſition of *Seville*, and afterwards burnt for his im-
" movable Perſeverance in the Confeſſion of his Faith, and deteſtation of
" their Impiety. When he was firſt ſeized, all his Effects and Merchandiſes,
" upon Account of which he came to *Spain*, were, according to the Cuſtom
" of the Inquiſition, ſequeſtred. Amongſt theſe were many other Merchan-
" diſes which were conſigned to him as Factor, according to the Cuſtom of
" Merchants, by another *Engliſh* Merchant dwelling in *London*. This Mer-
" chant, upon hearing that his Factor was impriſoned, and his Effects ſeized
" on, ſent one *John Frontom*, as his Attorney, into *Spain*, with proper In-
" ſtruments, to recover his Goods. His Attorney accordingly went to *Se-*

in the Quire and Refectory, and be perpetually deprived of his active and passive Vote, and of the Faculty of hearing any Persons Confessions whatsoever.

l. 2. *t.* 2. *c.* 15. *n.* 10. *p.* 233. *Lewis a Paramo* gives us another remarkable Instance of one *Mary* of the Annunciation, Prioress of the Monastery of the Annunciation at *Lisbon*, a Maid of 32 Years old, who had pretended that the Wounds of Christ, by the special Grace and Privilege of God, were imprinted on her, and shewed 32 Wounds made on her Head, representing the Marks of those which were made by our Saviour's Crown of Thorns, and Blood sprinkled on her Hands like a Rose, the Middle of which was like a Triangle, and shewed the Holes of the Nails narrower on one Side than the other. The same were to be seen in her Feet. Her Side appeared as tho' it had been laid open by the Blow of a Lance. When all these Things were openly shewn, it was wonderful to see how they raised the Admiration and Devotion of serious and holy Men, and withal surprized and deceived them; for she did not suffer those pretended Wounds to be seen otherwise than by Command of her Confessor. And that absent Persons might have a great Veneration for her, she affirmed, that on *Thursdays* she put into the Wounds a small Cloth, which received the Impression of five Wounds in Form of a Cross, that in the Middle being the largest. Upon which these Cloths were sent, with the greatest Veneration, thro' the infinite Devotion of the Faithful, to the Pope, and to almost all the most venerable and religious Persons of the whole World. And as *Paramus* then had the Administration of the Causes of Faith in the Kingdom of *Sicily*, he saw several of those Cloths, and the Picture of that Woman drawn to the Life, and a Book written by a Person of great Authority concerning her Life, Sanctity and Miracles. Yea, Pope *Gregory* XIII. himself determined to write Letters to that wretched Creature, to exhort her thereby to persist with Constancy in her Course, and to perfect what she had begun. At last the Imposture was found out, that the Marks of the Wounds were not real, but made with red Lead, and that the Woman's Design was, when she had gained Authority and Credit enough, by her pretended Sanctity, to recover the Kingdom of *Portugal* to its former State, which had legally fallen under the Power of *Philip* II. Upon this the following Sentence was pronounced against her by the Inquisitors of *Lisbon*, *Decemb.* 8. *An.* 1588. First, she was commanded to pass the rest of her Life shut up in a Convent of another Order, that was assigned to her, without the City of *Lisbon*. Likewise, that from the Day of pronouncing the Sentence, she should not receive the Sacrament of the Eucharist for the Space of five Years, three *Easters*, and the Hour of Death excepted, or unless it were necessary to obtain any Jubilee, that should in the mean while be granted by the Pope. Likewise that on all *Wednesdays* and *Fridays* of the whole Year, when the religious Women of that Convent held a Chapter, she should be whipped, whilst the Psalm, *Have Mercy on me, O God*, was reciting. Likewise, that she should not sit down at Table at the Time of Refreshment, but should eat publickly on the Pavement, all being forbidden to

(*Ibid. t.* 3. *c.* 5. *n.* 16. *p.* 303.)

eat any Thing ſhe left. She was alſo obliged to throw her ſelf down at the Door of the Refectory, that the Nuns might tread on her as they came in and went out. Likewiſe, that ſhe ſhould perpetually obſerve the Eccleſiaſtical Faſt, and never more be created an Abbeſs, nor be choſen to any other Office in the Convent where ſhe had dwelt, and that ſhe ſhould be always ſubject to the loweſt of them all. Likewiſe, that ſhe ſhould never be allowed to converſe with any Nun without Leave of the Abbeſs. Likewiſe, that all the Rags marked with Drops of Blood, which ſhe had given out her ſpurious Relicks, and her Effigies deſcribing her, ſhould be every where delivered to the holy Inquiſition; or if in any Place there was no Tribunal of the Inquiſition, to the Prelate, or any other Perſon appointed. Likewiſe, that ſhe ſhould never cover her Head with the ſacred Veil, and that every *Wedneſday* and *Friday* of the whole Year ſhe ſhould abſtain from Meat, and live only on Bread and Water, and that as often as ſhe came into the Refectory, ſhe ſhould pronounce her Crime with a loud Voice in the Preſence of all the Nuns.

He tells us in the ſame Place, that *Michael Piedrola* took upon himſelf for many Years the Name of a Prophet, boaſted of Dreams and Revelations, and affirmed they were revealed to him by a divine Voice. Being convicted of ſo great a Crime, he abjured *de levi*, was for ever forbid the reading of the Bible, and other holy Books, deprived of Paper and Ink, prohibited from writing or receiving Letters, unleſs ſuch only as related to his private Affairs, denied the Liberty of diſputing about the holy Scripture, as well in Writing as in Diſcourſe, and finally, commanded to be thrown into Jayl, and there paſs the Remainder of his Life.]

The common Puniſhment of Hereticks is the Confiſcation of all their Effects; for altho' this Confiſcation is kindly remitted to thoſe who come of their own Accord, and voluntarily confeſs before they are accuſed, yet this Favour is never granted in *Spain*, to thoſe who at length confeſs after they are accuſed and thrown into Priſon, or who perſiſt in their Opinion. And this Confiſcation is made with ſuch Rigour, that the Inquiſition orders the Exchequer to ſeize on not only the Effects of the Perſons condemned, but alſo all others adminiſtred by them, altho' it evidently appears that they belong to others. The Inquiſition at *Seville* gives a remarkable Inſtance of this Kind, which *Gonſalvius* gives us a long Account of, with all its Circumſtances.

" *Nicholas Burton*, an *Engliſhman*, a Perſon remarkable for his Piety, was p. 175, &c.
" apprehended by the Inquiſition of *Seville*, and afterwards burnt for his im-
" movable Perſeverance in the Confeſſion of his Faith, and deteſtation of
" their Impiety. When he was firſt ſeized, all his Effects and Merchandiſes,
" upon Account of which he came to *Spain*, were, according to the Cuſtom
" of the Inquiſition, ſequeſtred. Amongſt theſe were many other Merchan-
" diſes which were conſigned to him as Factor, according to the Cuſtom of
" Merchants, by another *Engliſh* Merchant dwelling in *London*. This Mer-
" chant, upon hearing that his Factor was impriſoned, and his Effects ſeized
" on, ſent one *John Frontom*, as his Attorney, into *Spain*, with proper In-
" ſtruments, to recover his Goods. His Attorney accordingly went to *Se-*

" *ville*, and having laid before the holy Tribunal the Inſtruments and all
" other neceſſary Writings, demanded that the Goods ſhould be delivered to
" him. The Lords anſwered, that the Affair muſt be managed in Writing,
" and that he muſt chuſe himſelf an Advocate, undoubtedly to prolong the
" Suit, and out of their great Goodneſs appointed him one, to draw up for
" him his Petitions and all other Inſtruments, which were to be offer'd to the
" holy Tribunal, for every one of which they exorbitantly took from him eight
" Reals, altho' he received no more Advantage from them, than if they had
" never been drawn at all. *Frontom* waited for three or four whole Months,
" twice every Day, *viz.* in the Morning, and after Dinner, at the Gates of
" the Inquiſitor's Palace, praying and beſeeching, on his bended Knees, the
" Lords Inquiſitors, that his Affair might be expedited, and eſpecially the
" Lord Biſhop of *Tarraco*, who was then chief Inquiſitor at *Seville*, that he
" in Virtue of his ſupream Authority would command his Effects to be re-
" ſtored to him. But the Prey was too large and rich to be eaſily recovered.
" After he had ſpent four whole Months in fruitleſs Prayers and Intreaties, he
" was anſwered, that there was need of ſome other Writings from *England*,
" more ample than thoſe he had brought before, in order to the Recovery
" of the Effects. Upon this the *Engliſhman* immediately returns to *London*,
" and procures the Inſtruments of fuller Credit which they demanded, comes
" back with them to *Seville*, and laid them before the holy Tribunal. The
" Lords put off his Anſwer, pretending they were hindred by more impor-
" tant Affairs. They repeated this Anſwer to him every Day, and ſo put
" him off for four whole Months longer. When his Money was almoſt ſpent,
" and he ſtill continued earneſtly to preſs the Diſpatch of his Affair, they
" referred him to the Biſhop. The Biſhop, when conſulted, ſaid he was
" but one, and that the expediting the Matter belonged alſo to the other
" Inquiſitors; and by thus ſhifting the Fault from one to the other, there
" was no Appearance of an End of the Suit. But at length being overcome
" by his Importunity, they fixed on a certain Day to diſpatch him. And
" the Diſpatch was this: The Licentiate *Gaſcus*, one of the Inquiſitors, a
" Man well skilled in the Frauds of the Inquiſition, commands him to come
" to him after Dinner. The *Engliſhman* was pleaſed with this Meſſage, and
" went to him about Evening, believing that they began to think in good
" Earneſt of reſtoring him his Effects, and carrying him to Mr. *Burton* the
" Priſoner, in order to make up the Account, having heard the Inquiſitors
" often ſay, tho' he did not know their real Meaning, that it was neceſſary
" that he and the Priſoner ſhould confer together. When he came, they
" commanded the Jayl-Keeper to clap him up in ſuch a particular Priſon,
" which they named to him. The poor *Engliſhman* believed at firſt, that he
" was to be brought to *Burton* to ſettle the Account, but ſoon found him-
" ſelf a Priſoner in a dark Dungeon, contrary to his Expectation, and
" that he had quite miſtaken the Matter. After three or four Days they
" brought him to an Audience, and when the *Engliſhman* demanded that the
" Inquiſitors ſhould reſtore his Effects to him, they well knowing that it

" would

" would agree perfectly with their usual Arts, without any other Preface, " command him to recite his *Ave Mary*. He simply repeated it after this " manner. *Hail*, Mary, *full of Grace, the Lord is with thee, blessed art thou* " *amongst Women, and blessed is Jesus the Fruit of thy Womb*. Amen. All was " taken down in Writing, and without mentioning a Word about the resto- " ring his Effects, for there was no Need of it, they commanded him back " to his Jayl, and commenced an Action against him for an Heretick, be- " cause he had not repeated the *Ave Mary* according to the Manner of the " Church of *Rome*, and had left off in a suspected Place, and ought to have " added, *Holy* Mary, *Mother of God, pray for us Sinners*; by omitting which " Conclusion, he plainly discover'd that he did not approve the Intercession of " the Saints. And thus at last upon this righteous Pretence he was detained " a Prisoner many Days. After this he was brought forth in Procession " wearing an Habit, all his Principal's Goods for which he had been suing be- " ing confiscated, and he himself condemned to a Year's Imprisonment.

But as to suspected Persons, and those who voluntarily appear, 'tis not usual to punish them with Confiscation of Effects, and therefore other Punishments, which they call wholesome Penances, are injoined them. The Punishments and Penances to which such Penitents are condemned, are various. Those which *Dominick* used to injoin them, in order to their Reconciliation to the Church, may be collected from his Forms, which are still extant. One of them is in this Manner. *To all the Faithful of Christ, to whom these present Letters* Bzovius, *shall come, Friar* Dominick, *Canon of* Osma, *the least of Preachers, Salvation* An. 1215. *in Christ. By Authority of the Lord Abbot of* Cisteaux, *Legate of the Apostolick* §. 13. *See, who hath committed this Office to us, we have reconciled the Bearer of these,* Pontius Rogerius, *converted thro' the Grace of God from the Sect of the Hereticks; commanding him by Virtue of the Oath he hath taken, to be led naked in his Breeches by the Priest on three Festival* Sundays, *and to be whipped from the Entrance into the Town, even to the Church. We also injoin him always to abstain from Flesh, Eggs and Cheese, or from all Things derived from Flesh, excepting* Easter-Day, Whitsontide *and* Christmas, *at which Seasons we command him to eat of them for the Denial of his former Error. Let him keep three Lents in a Year, abstaining from Fish. Let him always abstain from Fish, Oil and Wine, and fast three Days in a Week, unless bodily Infirmity, or the Labours of the Summer shall require a Dispensation. Let him be cloathed with religious Vestments, both as to Form and Colour, upon the Breasts of every one of which let strait small Crosses be sewed. Let him hear Mass every Day if it be convenient, and go to Vespers at Church on Holy-days. Let him consecrate to God other Hours, as well by Night as by Day,* viz. *seven times wheresoever he is. Let him say over his* Pater-noster *ten times in the Day, and at Midnight twenty times. Let him observe Chastity, and in the Morning shew every Month to his Parson that Paper at the Town of* Ceri. *We also command the Parson diligently to observe his Life. Let him carefully observe all these Things, until the Lord Legate shall otherwise express his Pleasure to us in this Matter. But if he shall neglect to observe them, we command that he be accounted as perjured, an Heretick, and excommunicated, and separated from the Conversation of*

the Faithful. There is extant allso another ſhorter one of the ſame *Dominick*, in theſe Words. *To all the Faithful of Chriſt, to whom theſe preſent Letters ſhall come, Friar* Dominick, *Canon of* Oſma, *an humble Preacher, Salvation and ſincere Affection in the Lord. May all your Diſcretions know by Authority of theſe Preſents, that we have granted Licence to* Raymond Will. Pelaganirio, *of* Haulte ripe, *to ſuffer to abide with him in his Houſe at* Tholouſe, William Ugotio, *cloathed, as he himſelf hath declared before us, in a certain heretical Habit, and converſing after the Manner of other Men, until the Lord Cardinal ſhall give a farther more expreſs Command to us or him in this Affair. And let not this be any Occaſion of Infamy or Damage to him the ſaid* Raymond William.

In the Council of *Tarraco*, theſe Forms of Penances are fixed. *Let Hereticks perſevering in their Error, be left to the Judgment of the ſecular Court, and let convicted Hereticks, if they will be converted, and Dogmatiſers, after Abſolution and Abjuration, be perpetually impriſoned.*

Let the Believers of Hereticks do ſolemn Penance, viz. *after this manner,* viz. *that on the next enſuing Feſtival of* All-Saints, *and on the Lord's-Day of the* Advent, *on the Day of our Lord's Birth, Circumciſion,* Epiphany, *St.* Mary *in* February, *St.* Eulalia, *St.* Mary *in* March, *and all* Sundays *in* Lent, *they walk in Proceſſion to the See, or Cathedral Church, without Shoes, in their Breeches and Shirt. Beſides this, on St.* Mary*'s Day in* February, *and on* Palm-Sunday, *they ſhall be reconciled in the Pariſh-Church, and in the Proceſſion receive publick Diſcipline by the Biſhop or Prieſt of the Church. Likewiſe on* Wedneſday, *at the Beginning of the Faſt, they ſhall come together to the See, and after the ſame Manner, and according to Form of Law, appear without their Shoes in their Breeches and Shirt, and be excluded the Church, and be kept out of it during the whole Time of* Lent, *but ſo as to be ſuffered to come to the Gates of the Church to hear Service. And on the Feſtival of* Cœna Domini, *let them appear without Shoes, in their Breeches and Shirt, before the Gates of the Church, and be publickly reconciled to the Church, according to the Canonical Inſtitutions. And let them do this Penance on* Wedneſday, *and of ſtanding without the Church the whole Time of* Lent, *and on the Day of* Cœna Domini, *every Year whilſt they live. But on* Lent Sundays, *after Reconciliation, let them go out of the Church, and ſtand before the Gates of it till the Feſtival of* Cœna Domini, *and always wear two Croſſes before their Breaſts, of a different Colour from their Cloaths, and ſo wear them, that they may appear ſolemnly penitent, with this Exception only, that they ſhall not be hindred from entring into the Church in* Lent *more than ten Years.*

The Penance of thoſe who have relapſed into favouring of Hereſy, ſhall be in like manner ſolemn, as that laſt mentioned of thoſe believing in them, and upon all the aforeſaid Days; this excepted, that they ſhall wear Croſſes, and in like manner do Penance on Aſh-Wedneſday *and* Holy Thurſday *for ten Years.*

The Penance of thoſe who are not relapſed into favouring, but are Favourers, and moſt vehemently ſuſpected, ſhall be in the ſame Manner ſolemn upon the Feaſt of All-Saints, *the* Nativity of Chriſt, Epiphany, *St.* Mary *of* February, *and all* Sundays *in* Lent. *And let them do the other Penance for ſeven Years, ordered to be done*

done on Wednesday *in* Lent, *standing without the Church during the Time of* Lent, *and being reconciled upon the Festival of* Cœna, *as abovesaid.*

The Penance of those who are Favourers, and vehemently suspected, shall be solemn, in the same Manner, upon the Festival of All-Saints, Christmas, *St.* Mary *of* February, Palm-Sunday, *and they shall do for five Years the other Penance of the* Wednesday *in* Lent, *and of standing without the Church during the whole Time of* Lent, *and being reconciled on the Festival of* Cœna, *as abovesaid.*

The Penance of those who are Favourers, and suspected, shall be solemn, in the same Manner, upon the Feast of All-Saints, *St.* Mary *of* February, *and* Palm-Sunday, *and they shall do for three Years the other Penance, on the* Wednesday *in* Lent, *and of standing without the Church during the whole Time of* Lent, *and of being reconciled on the Festival of* Cœna Domini. *This however is to be understood, that the Women shall come cloathed, and suffer Discipline.*

This Penance all the aforesaid Persons, who are Citizens, shall do, upon the Festivals and Days before prescribed, in that City and Place where they are Citizens, and no where else, till the Festival of Easter. *Those who are Foreigners shall do it in their Parishes, and no where else; excepting on the* Wednesday, *in the Beginning of* Lent, *and on the Day of the Festival of* Cœna, *in which all must come to the See or the Place of their Church. But in the following Seasons of* Lent, *let all Citizens and Foreigners do the ten, seven, five, and three Years Penance which they ought to do on* Wednesday *at the Beginning of* Lent, *and on the Festival of* Cœna Domini, *according to the different Nature of their Crimes, as is before determined, in the See of their City, and no where else, unless upon any just and reasonable Cause, and by the special Licence of the Bishop or his Vicar; and then in such Places where they shall go by the Bishop's Leave, they shall do the same Penance before the Bishop of that Place, or his Vicar, carrying the Letters of the Bishop or his Vicar, containing the Penance which they ought to do. And let him also, who doth the Penance, bring back the Letters of the Bishop of that Place, to* N. *of such a Diocese, containing a Testimonial of the Penance being performed. But if it should happen, that by Accident, and not by Fraud and Deceit, they can't come on those two Days to the Cathedral Church, then after their Return let them undergo publick Discipline, at the Pleasure of the Bishop, at the See of* N. *according to the Manner of those two Days, upon two other Solemnities to be assigned them.*

From these Things it appears that the Punishments to which such Penitents are usually condemned, are many and different. For first, there are some which they strictly call wholesome Penances, such as Fastings, Prayers, Alms, the frequent Use of the Sacraments of Penance, and the Eucharist, and finally Pilgrimages to certain Places. Thus in the Book of the Sentences of the *Tholouse* Inquisition some are injoined, *That they shall visit every Year, whilst they live, the Church of St.* Stephen *at* Tholouse, *in the Festival of its Invention, and the Church of St.* Saturninus *at* Tholouse, *on the Octave of* Easter. *Likewise we injoin all and singular of you the above mentioned Persons, Pilgrimages to St.* Mary de la Roche d'Amateur, *and of* Le Puy d'une vallee Verte, *and of* Montpellier, *and of* Serignan, *and to St.* Guillaume *in the Desert, and St.* Geniez *in* Provence, *St.* Pierre *of* Montmaiour, *St.* Martha *of* Tarascon, *St.*

fol. 99. *b.*

fol. 102. *a.*

St. Mary Magdalene *at St.* Maximin, *St.* Anthony *of* Vienne, *St.* Martial *and St.* Leonard *in the* Limousin, *St.* Dionysius, *and St.* Lewis, *and to the Virgin* Mary *of* Chartrin *in* France, *St.* Severin *in* Burdeaux, *the Virgin* Mary *of* Soulac, *St.* Faith *of* Concq, *St.* Paul *at* Narbonne, *and St.* Vincent *of* Castres.

This Pilgrimage the Penitent is injoined to make, with a black Habit, which he must carry with the Inquisitors Letters, to that Place which he is to visit in his Pilgrimage; and he is farther required to bring back Letters testimonial of the Predicant Friars, or others who dwell there in Witness of the Truth.

Sometimes they were injoined Pilgrimage, to go to War in the Holy Land against the *Saracens*. Thus the Council of *Biterre* hath determined, that such *who have thus offended the Faith or Church, shall also defend it for a Time, to be appointed at your Pleasure, either by themselves or others more fit, on the other or this Side the Sea, against the* Saracens, *or Hereticks and their Favourers, or such who otherwise rebel against the Faith and the Church.* And afterwards, *as to those who shall be injoined Pilgrimages, they shall be obliged to shew the said Testimonial Letters in each of their Pilgrimages to him, who presides over the Church which they visit, and to bring back the said Letters to you, in Testimony of their having made such Pilgrimage. As to those who go beyond Sea, let them, as soon as they can, after their Transportation, present themselves, with your Letters, to the venerable Fathers the Patriarchs of* Jerusalem, *and* Acre, *or to any other Bishop whatsoever, or to their Vicegerent, and let them bring back to you at their Return the Letters of every such foreign Bishop, in Witness of their having laudibly performed their Pilgrimage there.* An Instance of such a kind of Sentence we have in the Book of Sentences of the *Tholouse* Inquisition, pronounced against *fol.* 142. *b.* Master *William Garrici*, Professor of Laws at *Carcassone*, who was condemned to go to the War in the Holy Land, or if he was legally prevented, to send, at his own Charge and Expence, another proper Soldier to the Relief of the said holy Land. And as for himself, he was within thirty Days to depart out of the Kingdom of *France*, and to stay in the Place assigned him, till there should be a Transportation into *Asia*; to which was added the Punishment of perpetual Imprisonment, if he refused to fulfil this Penance.

Secondly, Some Penances are honorary, attended with Infamy to those who do them. Such are, walking in Procession without Shoes, in their Breeches and Shirt, and to receive therein publick Discipline by the Bishop or Priest, to be expelled the Church, and to stand before the Gates of the great Church upon solemn Days, in the Time of Mass, with naked Feet, and wearing upon their Cloak an Halter about their Neck. At this Time they only stand before the Gates of the Church, with a lighted Candle in their Hand, during the Time of solemn Mass on some holy Day, as the Bell is ringing to Church.

Besides these, they now use the Punishment of Banishment, and Criminals are banished not only into such Places as are subject to the Jurisdiction of the Inquisitor who banishes them, but to Places subject to other Inquisitors, because

caufe all Places are fubject to the fame chief Pontiff, by whom all the Inquifitors are delegated. To this may be added the Punifhment of being thruft into a Monaftery, which, tho' now feldom inflicted, was much more in ufe formerly. *Bzovius* gives us an Inftance of it in the Year 1479. " This §. 8.
" Year was condemned at *Mayence*, *John Rucard*, of the Upper *Wefel*,
" D. D. and compelled by the Inquifitor to recant certain Articles which he
" was reported publickly to have preached at *Worms*. All his Writings
" were before his Face thrown into the Fire and burnt, and he himfelf fent
" to do Penance to the Convent of *Auftin* Friars in that Place, where he died
" in a little while of Grief." *Bzovius* alfo relates the Articles againft him, moft of which were againft the Papal Authority. The firft of them deferves to be mentioned: *That the Prelates of the Church have no Authority to ordain or add any Thing to what Chrift and his Apoftles have ordained: Yea, that neither Apoftles nor the Popes have received fuch Power from Chrift.*

There is alfo another Punifhment of Beating or Whipping, when Criminals are condemned to be whipped with Scourges or Rods. If they are religious Perfons, they are whipped in their own Monaftery by other Religious, in the Prefence of the Notary of the holy Office. This Punifhment, *Paramus* being Witnefs, *Laurentius Valla* fuffered, who being condemned for Herefy at *Naples*, was preferved from the Fire by the King's Favour, but upon this Condition, that after he had publickly recanted and damned the Things he had uttered, he fhould atone for his Crimes by Whipping. And accordingly in the Convent of the Predicants, being led round the Cloyfters with his Hands tied, he was whipped upon his Shoulders and Back, by the Religious of the Houfe. *l. 2. t. 3. c. 4. n. 31.*

Sometimes they are condemned to Fines, according to the Refcript of *Alexander* IV. *Super exftirpatione*; and this they are efpecially defirous of laying upon rich and covetous Perfons. *Alexander* IV. makes this Difpofition in the Affair. *As to the Money which may poffibly arife from fuch Punifhments, or from the third Part of the Fines or Condemnations, to be exacted from fuch Perfons and Places, or from the Effects to be feized on by Occafion of Herefy or Hereticks, according to the Tenour of our Conftitutions, let it be depofited in the Hands of three faithful and approved Men, to be chofen by you and the Diocefan, or his Vicar in his Abfence, and be faithfully kept by them, and let fuch Expences as are neceffary to the Profecution of the Affair againft Hereticks, be allowed you, and every one of you, without any Difficulty, by the Advice of the Bifhop himfelf, and let a full and faithful Account be given to the faid Diocefan of all fuch Expences.*

But here muft be obferved what *Zanchinus* teaches. " If the Inquifitor *Cap.* 19.
" condemns any one as an Heretick, he can't condemn him in a certain Sum
" of Money, for two Reafons. Firft, becaufe as he condemns him for an
" Heretick, all his Effects are to be taken from him; fo that fince his All
" is to be forfeited, 'tis idle to talk of taking from him a Part, or any
" Thing lefs than All. Secondly, becaufe as he condemns him for Herefy,
" and as an Heretick, he cannot mitigate his Punifhments by commuting for

"them with Money; because the Punishments against Hereticks are deter-"mined by Law, and therefore certain, for which Reason 'tis not in the Power "of the Judge or Inquisitor to convert or commute them into Money. But "if the Inquisitor doth not condemn him as an Heretick, but will punish him "as disobedient or suspected, or correct and purge him upon his Return, then "he may lay a Fine on him, as he may from his own Motion injoin him other "Punishments. But let him take Care, that when he intends to fine him, he "doth not take away all from him, because this is not lawful."

Sometimes, however it happens, that the Inquisitors do, either thro' Imprudence or Inadvertence, offend against this Admonition of *Zanchinus*, as may
p. 180. be collected from an Instance related by *Gonsalvius*. "In the Inquisition at "*Seville*, they proceeded by an Inquisitory Censure against a certain Citizen, "upon Account of Religion. Amongst other Parts of his Punishment, he "forfeited all his Effects and Incomes, on which he had lived creditably "enough before, and was ordered to be confined in a certain private Jayl, "for ten Years, being thus stripped of all he had. After he had been some "Days in the Prison, in which, being reduced to extream Poverty, tho' "otherwise far from being in mean Circumstances, he was supported by the "Contributions of some pious Persons, one of the Notaries of the Inquisition "comes to him, and brings him a Command in Writing from the holy Tri-"bunal, by which he was ordered to pay the Sum of 130 Ducats for his Ex-"pences and Provision during his Imprisonment in the Inquisition. The An-"swer he returned to the Order was, that it was true, that having been "plundered and stripped entirely of all his Effects, by these self same Fa-"thers of the Faith, he had nothing left to pay that Money. This Answer "did not satisfy their Lordships, who sent the Notary to him a second time, "commanding him to pay, within a few Days, the Money they had de-"manded, or that otherwise they would take him out of his private Prison, "and throw him into the publick Jayl of the City. Unthinking Creatures, "who did not take Care to pay themselves their own Expences, before they "brought the Man's Effects into the Exchequer."

Direct. p. 2. *n.* 19. *com.* 7. However, Fines are not exacted for all sorts of Crimes, but for some particular kind of them only. For the Popish Doctors observe, that those who offend concerning the Faith, may two ways offend the Church. First, by only believing amiss, and also by publishing Heresies. Secondly, when besides their ill Belief, they have added other Crimes, *viz.* if they have burnt Churches, destroyed Images, killed Catholicks, or committed the like Things. If they offend in the first Manner, and are returned, the Inquisitor may, if he will, before they are absolved from Excommunication, exact from the Person returning, not only an Oath of obeying the Commands of the Church, but also Security and Bail, under Penalty of a Fine of obeying such Commands, and exact such Penalty if he doth not obey. *Alexander* IV. hath expresly provided this in a Rescript beginning, *Super exstirpatione*. 'Tis however more honourable, not to take such Security, under Penalty of a Fine, that they may not appear to do any thing rather out of Covetousness, than

than the Love of Religion, as the Council of *Narbonne* hath advised, cap. 17. *You must abstain from and forbear such pecuniary Penances and Exactions, because of the Honour of your Order.* If they have offended in the second Manner, they are not according to the Rigour of the Law, to be received and absolved, before they have made good and repaired the Damage out of their own Estates. C. *Porro*, and C. *Parochianos*, de sent. excom. *You must admonish and persuade them, that they give due Satisfaction to those they have injured.* And, *cause them to be strictly avoided as excommunicated Persons, till they have made proper Satisfaction to the Persons injured.* If they can't immediately give Satisfaction for the Damage they have done, either thro' Poverty or other Causes, they are to be absolved, upon giving proper Security, *viz.* by laying something down as a Pledge, or giving Sureties to make Satisfaction when they are able, or when they shall come to a larger Estate. 'Tis also now a Custom observed by all the Inquisitors, tho' it be provided for by no Law, gently to strike with a Rod such as return when they absolve them.

Such Persons also are excluded from all publick Offices as infamous. These *3. p. n. 34.* publick Offices are, Offices of all sorts, and of every Name, according to the *com. 8.* various Rites and Customs of different Provinces. The Council of *Tholouse* reckons even the Office of a Physician amongst them. Cap. 14. *We ordain also, that whosoever shall be defamed for Heresy, or marked as suspected, shall no longer be allowed the Profession of a Physician.*

Farther also, Penitents, and those reconciled, returning from Heresy to the Church, and the Children and Grandchildren of condemned Persons are not only excluded from bearing publick Offices, or having Benefices and Dignities, but from using Silver, Gold, or precious Garments and Ornaments, according to the Council of *Biterre*, c. 28. *Let them not hold Ballives or Administrations, nor be in the Councils or Families of the Great, nor be allowed to practise as a Physician or Notary, nor be admitted to other publick Offices, or legal Actions, nor wear Gold-laced Cloaths, nor Silk, or the like Ornaments, or yellow Ribands, nor Shoe-strings tagged and striped with Gold or Silver, nor carved or painted Shoes; and when it appears proper, let them be turned out of the City where they dwelt, and remain for some time in some other City or Province.* 'Tis also forbidden them to ride on Horses with Trappings, as Nobles do, which Prohibition extends also to Mules. But in these Cases they allow a Dispensation after some Time.

But the most usual Punishment of all is, their wearing Crosses upon their penitential Garments, which was not only formerly in Use, but is now frequently injoined Penitents in *Spain* and *Portugal*. And this is far from being a small Punishment. Because such Persons are exposed to the Scoffs and Insults of all, which they are obliged to swallow, tho' the most cruel in themselves, and offered by the vilest of Mankind, for by these Crosses they are marked to all Persons for Heresy, or as it is now in *Spain* and *Portugal* for *Judaism*. And being *fol. 177.* thus marked, they are avoided by all, and are almost excluded from all human Society. We have an Instance of this in the Book of Sentences of the *Tholouse* Inquisition, in one *Arnald Ysarni* of *Villemaur*, who had thrown off his Crosses, and being afterwards again apprehended, gave this Reason for doing it before the

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Inquisitor; *because by wearing his Crosses he could find no Persons and Place, where he could get his Living, and that therefore he stood for ten Years without them at the* Moyssac, *and got his Livelihood by going and coming with the Ships to* Bourdeaux.

But there is some Difference in the Manner of wearing these Crosses, for they are not always fixed on the penitential Habits the same way. For, in the first place, the Council of *Tholouse*, *An.* 1229. held against Heretics, hath thus determined concerning them. *Also in Detestation of their former Error, let them wear two Crosses for the future on the Top of their Garments, of a different Colour from their Cloaths, one on the right, and the other on the left; and let not any one be excused on Account of these Crosses, unless he can produce the Letters Testimonial of his Bishop, as to his Reconciliation.* These Crosses were so placed, as that they exactly answered the two Breasts, as appears by the Letters of *Dominick. Let them be cloathed with religious Garments, both as to Shape and Colour, on which let two small Crosses be sown directly upon each Breast.* But afterwards that these Penitents might be more openly and fully exposed to the View of all Persons, whether they stood before or behind them, 'twas decreed that they should wear one before upon their Breasts, and the other behind between their Shoulders. Thus we read in the Acts of the Council of *Biterre*, c. 26. *In Detestation of their former Error, let them wear upon their outward Garment, two Crosses of a yellow Colour, two Spans and a half long, and two wide, and having the Breadth of three Fingers in themselves, one before on their Breast, and the other behind between their Shoulders, not having that upper Garment, upon which they wear the Crosses, of a yellow Colour, neither shall they put any Thing over it, either within Doors or without. And if they are convicted Hereticks, or condemned, let them wear a third Cross of a competent Largeness, or of the same Colour, upon their Hat or Veil. And if they happen to be forsworn, or have caused others to forswear themselves, let them wear upon the upper Part of the two Crosses, which they carry upon their Breast, and between their Shoulders a Cross-Arm or Bar of a Span long, or thereabouts. Those who are to transport themselves must wear the aforesaid Crosses, till they are got beyond Sea, but shall not be obliged to wear them after that, till they shall come to the Shore to go aboard, in order to their Return, but they shall always wear them on the Sea-shore, when at Sea, and in the Isles.* This Garment was formerly of a black and bluish Colour, like a Monk's Cloak, made without a Coul, and the Crosses put on them were strait, having one Arm long, and the other a-cross, after this manner †. Sometimes according to the Heinousness of the Offence, there were two Arms a-cross, after this manner ‡. But now in *Spain* this Garment is of a yellow Colour, and the Crosses put on it are oblique, after the Manner of St. *Andrew*'s Cross, in this Form X, and are of a red Colour. [This Habit was used to be made always, and every where, of Woollen Cloth, but now 'tis made shorter than formerly. For heretofore 'twas full as long as the Monks Cloaks, and remained so all the while it was marked with Crosses. For as the Crosses themselves were three Spans Length, it could not be otherwise but that the Sackcloth must be long too. But afterwards, upon Account of the Crosses being taken away, and that the Sackcloth might differ from the Monk's Cloak, it was reduced to a shorter Measure. In some Tribunals also of *Spain*, another kind

Direct. p. 3. *com.* 42. Param. *l.* 1. *t.* 2. *c.* 5. *p.* 42.

kind of penitential Garment was in Use. For upon such Criminals as were not convict, but only vehemently suspected of Heresy, they used to put a half penitential Garment, covering the Breast only, which was marked only with one Line, of a red Colour, and not with two cross ones, as the whole Sackcloth used to be marked with, that it might be hereby shewn, that he was not truly and formally an Heretick, but vehemently suspected of Heresy.] This Cloak the *Italians* call *Abitello*, the *Spaniards*, *Sant benito*, as tho' it was *Sacco benito*, *i.e.* the blessed Sackcloth, because it is fit for Penance, by which we are blessed and saved. But *Simancas* says, 'tis the Garment of St. *Benedict*. The wearing it is commanded, 4 *Instruct. c.* 9. They pretend that the Foundation of this Habit is to be found in the sacred Writings, because those who suffered formerly for their Impieties, were, besides other Penances, sometimes cloathed with Sackcloth, in order to implore the divine Mercy, and to render God propitious whom they had offended, as they shew in the Example of *Achab*, 1 Kings xxi. 27.

But *Ludovicus a Paramo* carries its original higher, *viz.* that as God cloath'd our first Parents with Garments of Skins, in Token of Confusion and perpetual Shame, so the Inquisitors, at this Day, in Imitation of God, cloath such as are convicted of Heresy, with these blessed Sackcloths, with oblique Crosses on them, to the proper Ignominy and Confusion of those who wear them. And he gives this Reason why these ignominious Garments are called *blessed Sackcloths*. Because formerly Sinners were cloathed with blessed Sackcloths, in Token of publick Penance, and was taken upon a voluntary Vow by the Penitents themselves. But this Custom, in Process of Time, came into Disuse; and because antiently these Sackcloths were blessed in the Primitive Church, therefore they were called *blessed Sackcloths*. And therefore the Inquisition, in Detestation of the Crime of Heresy, hath renewed the Custom of publick Penance and blessed Sackcloth. He gives also a very ridiculous Reason, why the Crosses, which were formerly strait, are now made oblique, upon the penitential Garments. *Because the Cross is the external Sign, by which all the Worshippers of Christ profess the Catholick Faith. Since therefore they who offend against the Catholick Faith, deviate from the Rectitude of the Faith, the Inquisitors are used to cloath Penitents with these transverse Marks, in Token of such Deviation, that it may appear to all by the Figure of the oblique Cross, what is the inward State of him that wears it, what he hath been, and how he hath wandered from the Rectitude of the Faith and of the Christian Religion.*

l. 1. *t.* 2. *c.* 4, 5.

These Crosses are put on those, who have believed Heresies, and sometimes on those who have been Dogmatisers, but who immediately, upon their being found out and informed against before the Bishops and Inquisitors, depart from their Errors, and consent to abjure them. Such are more gently dealt with, and 'tis easier to have a Dispensation as to their Penance. For either they are to wear their Crosses only for a Time, or if they are injoined them for their whole Life, after they have worn them for some Years, in another Sermon or Act of Faith, they leave them off again, or if they are in an ill State of Health, or if the Penitent be remarkably humble, and truly converted.

verted. But such a Dispensation is the more difficultly obtained, because the publick wearing these Crosses may make great Satisfaction in Behalf of those who carry them, yea, it may be greatly meritorious in them, because of the great Degree of Shame which such Persons endure, and may be, and is a considerable Warning to others.

Simanc. *t.* 47. §. 11, 12. He who throws off, or conceals this Garment, is to be punished as an Impenitent. Nor can the Inquisitors themselves, now in *Spain*, moderate the Time which they have fixed for the wearing it; both because their Office is discharged after they have pronounced from the Tribunal, and because this Matter is reserved to the Inquisitor General and Council. 4 *Instruct.* c. 9.

§. 13. This Habit of the Penitents, and Sackcloth of condemned Hereticks, is to be hung up in the Church of that Parish where they dwelt, that these sort of Ensigns may be a Monument to keep up the everlasting Remembrance of their Impiety; for the Names of the Hereticks, and the Reasons of their Condemnation are to be inscribed and renewed on them. *Madrid Instruct.* An. 1561. c. 81. *viz.* after the Example of *Moses*, *who made broad Plates for a Covering of the Altar, of the Censers of the two hundred and fifty Men who had offered Incense to the Lord, that they might be a Memorial and a Sign to the Children of* Israel, *Numb.* xvi. 39, 40. §. 14. If any one steals these Ensigns, 'tis the common Opinion, that he is to be punished at the Pleasure of the Judges, not as a Thief or sacrilegious Person, but as a Contemner of Religion and the Judges, and must therefore be whipped, or fined, or banished.

Finally, the most grievous Punishment is the being condemned to perpetual Imprisonment, there to do wholesome Penance with the Bread of Grief, and the Water of Affliction. This is usually injoined on the Believers of Hereticks, and such as are difficultly brought to Repentance, or who have a long while denied the Truth during the Trial, or have perjured themselves. For because such Persons do not seem to be voluntarily and willingly converted, they will not allow them their Liberty, lest being feignedly converted, as may be easily presumed, they should corrupt others. There is a Decree of the Council of *Tholouse* on this Affair, c. 10. *But as to those Hereticks, who thro' Fear of Death, or any other Cause, but not voluntarily, return to the Catholick Unity, let them be shut up in Prison to do Penance, by the Bishop of the Place, with such Caution, as that it may not be in their Power to corrupt others.* And the Council of *Biterre*. *If any one of the Professed, or Consolati, will, thro' Fear of Punishment, return to the Faith, let him be committed to perpetual Imprisonment by the Bishop, lest under the Shew of pretended Good the Church should be deceived.* Thus also the Emperor *Frederick* in L. *Commissi*, §. 2. Nor are those only who are very difficultly converted from Heresy, condemned to perpetual Imprisonment, but also certain other Persons, whose Crimes committed in the Cause of Faith are very remarkable, which the Council of *Narbonne*, held a few Years after that of *Tholouse*, particularly enumerates, in these Words, cap. 9. *But as to Hereticks, or their Believers, who have notwithstanding the aforesaid Immunity, suppressed the Truth concerning themselves or others, or have not come in within the Time of Grace, or who are otherwise unworthy, but yet are ready*

Direct. *p.* 3. *p.* 556. Tr. Tr. *f.* 417.

ready absolutely to obey the Commands of the Church, and to acknowledge that Truth which they have suppressed or denied, altho' such are without Doubt, according to the Statutes of our Lord the Pope, to be thrust into perpetual Imprisonment; yet inasmuch as we have understood that you have found in several Parts, so great a Multitude of them, as that there is not only not Money enough, but neither Stones nor Mortar sufficient to build Jayls for them, our Advice is, that you defer their Imprisonment as you think it convenient, till our Lord the Pope himself be more fully advised concerning their Number, except possibly any of them should be so very wicked, as that there is too much Reason to fear that they will be impenitent, or escape, or relapse, or corrupt and disturb others. Such Persons are to be sent without farther Delay to a secure and perpetual Jayl. In our Times this antient Confinement or perpetual Imprisonment, is seldom or never used; but the Bishops and Inquisitors often change it for a Confinement in some Monastery.

But altho' in our Ages the perpetual Jayl is not made after the same Manner in which it was formerly built, yet *Pegna* is of Opinion, that some certain House ought to be procured, and made use of as a perpetual Jayl, in which those who are to be shut up should dwell; because otherwise he can't understand how Penitents can perform the Penances enjoined them. The Order to be observed in these Things is provided for by the *Madrid* Instruction, *An.* 1561. c. 79, 80. *Those who are condemned to perpetual Jayl, shall be consigned to the Keeper of such perpetual Jayl, who must be injoined to keep the Criminals, and to take Care that they fulfill the Penances injoin'd them, and to inform the Inquisitors if they are negligent. Likewise let him take Care to assist them in their Necessities, by procuring for them the proper Implements according to every one's particular Business or Trade, that they may hereby procure something for their own Support, and thus better bear their present Misery and Poverty. Also the Inquisitors are to visit their perpetual Jayl several times in a Year, to see how they live, how they are treated, and what their Condition is. And because in some Inquisitions there is no perpetual Jayl, tho' the Thing be very necessary, they must procure some Houses for this Purpose; because if there be no such Jayl, it can't be understood how those who were reconciled, can fulfil their Penances, or those who are condemned to it be kept in Custody.* But this Case of observing whether they fulfil the Penances injoined them was formerly committed to some Priests, by the Council of *Narbonne*, c. 8. *Let the Care of observing their Penances be committed by you to their proper Priests, so that the Priests themselves having the Penances of their several Parishioners committed to them, and carefully inspecting how they observe them, they may inform, without Delay, against all Contemners, if any such there be to you, or to those whom you shall appoint, that you may proceed against them according to the Form hereafter described.*

Direct. p. 3. *com.* 108.

The Manner of this Imprisonment is determined by the Council of *Biterre*, c. 23, 24, 25. *Take Care that each of the Persons to be immured, have, according to the Appointment of the Apostolick See, separate and private Cells, as far as it can be done in the several Cities of the Dioceses that are corrupted, that they may not pervert each other, either themselves or others. But let not the exceeding Rigour of the Jayls destroy them, but you shall cause those who are in Possession of their Effects,*

to provide for them in Necessaries, according to the Statutes of the Council of Tholouse, which thus determines, c. 10. "*Let the Persons who are immured be pro-" vided for in Necessaries, according to the Disposition of the Prelate, by those who " are in Possession of their Effects. But if they have no Effects, let them be provi-" ded for by the Prelate.*" *But this Punishment or Penance of perpetual Imprisonment, shall never, from the Beginning of it, be remitted to any of the aforesaid Criminals, or commuted for another, unless it would either restore Hereticks, or unless because of his Absence his Children or Parents would be in imminent Danger of Death, or for any other Cause, which appears very just and reasonable. Let also the Wife have free Access to her immured Husband, and the Husband to his Wife, that they may not be denied to cohabit with each other, whether both be immured, or only one.* This Punishment of Immuration is very difficultly dispensed with, as the Council of *Biterre* hath decreed, *c.* 24. and the Council of *Narbonne*, more clearly, c. 19. *As to Persons to be imprisoned, we have thought proper to add this; that no one shall be excused from the Jayl, neither the Husband for his Wife, though she be younger, nor the Wife for the Husband, nor any one for his Children or Parents, or other Kindred, or for Weakness or Age, or any other the like Cause, without the special Leave of the Apostolick See.* However, the Inquisitors with the Ordinaries have now a Power of dispensing, excepting only that it is denied to the
Com. 108. Inquisitors in *Spain*, by the private Sanctions of that Inquisition; so that the Inquisitor General only dispenses in this Case, even as he doth also with respect to the Habit marked with Crosses. After how long a Time this Dispensation may be allowed, is left to the Pleasure of the Inquisitors, who, upon considering the Humility and Repentance of the Penitents, may remit this Punishment within a lesser while, or commute it for another. But 'tis generally remitted at the Expiration of three Years. But if this Punishment of the Jayl is injoined never to be remitted, 'tis generally dispensed with at the End of eight Years. But the whole of this depends on the Inquisitors Pleasure.

However, this Remission must be granted with the Advice of the Diocesans, as is ordered, *lib. 6. decret. de hæret. As to those who humbly obey your Commands, and are shut up in Prison, or in Jayl, upon the Account of Heresy, we give you full Power, as you shall see fit, of mitigating or changing their Punishment, in concert with the Bishops, to whose Jurisdiction they are subject.*

These Remissions may also be obtained with Money, by which Persons may redeem themselves from Jayl, and the Habits of their Guilt; and this Me-
Gonsalv. thod of Redemption used to be very common in *Spain*; because, as the
p. 166. "King granted certain Redemptions of these *Sambenito's* to the Court young " Ladies and Gentlemen, he who received the Grant, diligently enquires " where, and who the Persons are that are subject to this Punishment, and " who are most inclined and able to redeem it, with whom he afterwards " agrees about the Price, as he best can, either for more or less, taking into " the Account the Person that buys it off, and the *Sambenito* it self. Such as " are irremissible, the Price is dearer; such as are ordered to perpetual " Imprisonment, 'tis cheaper. Such which are but for a Time, and de-
" pending

" pending on the Inquisitor's Pleasure, cheaper yet; and such which depend
" on the Inquisitor's Pleasure only, cheapest of all. The King also sometimes
" shew'd the same Liberality to some others, who prayed to be assisted with
" the Money arising from these Sambenito's, to redeem their Brethren or
" Kindred from *Turkish* or *Moorish* Captivity. But if any one desires thus to be
" freed from his Sambenito, 'tis necessary before all Things, in order to ob-
" tain his Desire from the King, that he before-hand secure the good Will of
" the Inquisitors and Secretaries. For otherwise, tho' the King himself should
" grant it, and the Money be paid down, they would use all their Endeavours
" to frustrate it, and would cunningly and maliciously throw in effectual Ob-
" stacles, even by this single Expression, *viz.* that the King ought to be bet-
" ter informed of the Affair, and even the Pope himself, if he should have
" happened to grant the Absolution. And if the Matter should come thus
" far, it would be easy for them, before not over-scrupulous, to invent this
" Answer, that the Person was not so throughly purged from his Guilt, as to
" render it safe for him to be set at Liberty.

Besides this Condemnation to perpetual Imprisonment, such Persons are also injoined other Penances, *viz.* Sometimes to stand in the Habit marked with the Cross at the Door of such a Church, such a Time, and so long, *viz.* on the four principal Festivals of the glorious Virgin *Mary* of such a Church, or on such and such Festivals, at the Gates of such and such Churches. Concerning this there is a Decree extant of the Council of *Biterre*, *c.* 26. where, after commanding that Penitents should be present at divine Service on *Sundays* and Festivals, this is added, *That on the Mass of every* Sunday *and Festival, between the Epistle and the Gospel, they shall publickly present themselves with Rods in their Hands, stripped of their outward Garment, and with their Veil or Hat off, to the Priest celebrating Mass in the Presence of the People, and there, after having received Discipline, the Priest shall declare, that they suffer this Discipline for heretical Pravity.* Sometimes before they are shut up in Prison, they are publickly exposed, *viz.* being cloathed with the Habit of the Crosses, they are placed upon an high Ladder in the Gate of some Church, that they may be plainly seen by all, where they must stand till Dinner-time, after which they must be carried, cloathed in the same Habit, to the same Place, at the first Ringing to Vespers, and there stand till Sun set; and these Spectacles are usually repeated on several *Sundays* and Festivals in several Churches, which are particularly specified in their Sentence. However, there is no mention made in the Book of the Sentences of the *Tholouse* Inquisition, of such a Spectacle, on the Account of Heresy, but of two only who were condemned for false Witness. But if they break Prison, or do not otherwise fulfill the Penances injoined them, they are condemned as Impenitents, and as under the Guilt of their former Crimes; and if they fall again into the Hands of the Inquisitors, they are delivered over as Impenitents to the secular Court, unless they humbly ask Pardon, and profess that they will obey the Commands of the Inquisitors. Thus 'tis determined by the Council of *Tholouse*, *Let all such Hereticks or Believers of them, who, after they have sworn*

to obey the Commands of the Church, and either have, or have not obtained the Benefit of Absolution, refusing to observe and do the Penance of Imprisonment injoined them, either by not going into Jayl, or getting out of it after their Entrance, or any other Penance whatsoever, or thro' Contumacy, absenting themselves from receiving it, thus become Rebels, and thus openly manifest their Impenitency and feigned Conversion, be left by you, without any farther Audience at all, to the secular Judgment, to be punished according to their Desert, since 'tis sufficient that they have once deceived the Church by a false Conversion.

Pegna, p. 528. They are now also condemned to the Punishment of the Gallies, because the antient Practice of Immuration is at this Time seldom used. This is confirmed by *Royas*, *p.* 2. *Assert.* 15. §. 202. " It was a Custom very frequent " and usual in the Court of the Inquisition, that a Person condemned to a perpetual Jayl, should be dispensed with by the Inquisitor General, after three " Years. But that if any one was condemned to perpetual and unredeemable " Imprisonment, if he appeared humble and truly penitent, he should be dispensed with after eight Years. But now instead of perpetual Imprisonment, " Hereticks are condemned to the Gallies, provided they are not weak or aged. " Such Condemnation must not be for less than three Years, lest the Exchequer should receive more Damage than Benefit by the Expences. Thus " the supream and general Council of the Inquisition hath decreed. These " are the Punishments of Penitents.

Others will not depart from their Errors, but obstinately persist in them for a great while, and at length perhaps more thro' Fear of Death than the Love of Truth, depart from them, or pretend to do it, and abjure; and therefore they don't give much Credit to their Abjurations. Such are ordinarily condemned to perpetual and strict Imprisonment, and to Iron Fetters and Chains, where they are daily allowed the Bread of Grief for Meat, and the Water of Affliction for their Drink. To this Purpose is the Decree of the Council of *Biterre*, c. 23. *Take Care however, that, according to the Appointment of the Apostolick See, separate and secret Cells be appointed to such as are to be immured, as it can be conveniently done in the several Cities of the corrupted Dioceses, that they may neither be able to pervert themselves or others.*

The Inquisitors may also increase these Penances, if the converted Persons want Devotion, or are malicious and quarrelsome, because these Things shew that their Mind and Soul is far from being obedient to the Law of God, or the Commands injoined them. Hence it is that the Council of *Narbonne* gives this Caution to the Inquisitors, *c.* 7. *This Restriction always carefully observed, that it may be lawful for you, or the other Inquisitors, or those to whom the Church of* Rome *shall think proper to commit this Affair, or he to whom it belongs by Office, according to your or their Pleasure and Will, to add to, or take from the Penances injoined at any time for a reasonable Cause.* The Council of *Biterre* gives this farther Caution, *c.* 22. *Always retaining to your selves this Power, that if you shall think it expedient for the Affair of the Faith, you may, without any new Cause, bring back again the aforesaid Persons to Jayl.* Hence also in the Book of the Sentences of the *Tholouse* Inquisition, the Inquisitors

ſitors ordinarily reſerve this Power to themſelves. And if the Inquiſitor, either thro' Forgetfulneſs, or other Cauſes, hath not expreſly reſerved this Power to himſelf, he may nevertheleſs increaſe, change, remove, or leſſen theſe Penances. According to C. *Ut Commiſſi*, de hæret. l. 6.

CHAP. XXXIII.

When and how far any one is to be admitted to PENANCE.

'TIS a very important and difficult Queſtion amongſt the Popiſh Doctors, and very intricate, at what Time, and how penitent Hereticks are to be admitted. And that it may be more diſtinctly underſtood, I will here give the Opinions of three celebrated Doctors in this Matter. The firſt is *Simancas*, who uſes many Diſtinctions in the Solution of this Queſtion.
" For either he is a concealed Heretick, diſcovered by no one, and accuſes *tit.* 47.
" himſelf to the Inquiſitors, and plainly confeſſes his Errors. Such a one, §. 27.
" without Doubt, is to be received, and ought not to be injoined publick
" Penance, but is to be ſecretly abſolved. Or he hath been publickly an A- §. 28.
" poſtate or Heretick in another Kingdom, and before any one gave Evi-
" dence againſt him, he voluntarily returns to a ſound Mind, and asks Par-
" don and Abſolution from the Inquiſitors. Such a one alſo is to be admitted,
" but he muſt publickly abjure his Errors, and do wholeſome Penance. But
" he muſt not ſuffer the Puniſhment of Impriſonment, nor wear the Habit
" of Penitents. 1 *Inſtruct*. c. 8.
" Or he comes to the Inquiſitors thro' Fear of impending Proofs, and §. 29.
" diſcovers his Confederates in Wickedneſs, and fully confeſſes his Errors;
" and ſuch a one alſo, tho' Witneſſes come in againſt him, is to be reconciled
" to the Church, but is more gently to be dealt with; for he muſt not be con-
" demned to perpetual Jayl, nor wear for any conſiderable Time the peni-
" tential Habit. Or he is already apprehended, and thrown into Priſon, and §. 30.
" then confeſſes his Hereſies, and then his Confeſſion is ſaid to be voluntary.
" He alſo who upon Admonition confeſſes his Hereſies, before the Evidence §. 31.
" of the Witneſſes is ſhewn him, is to be kindly received, and not condemned
" to perpetual Jayl, becauſe he confeſſes before he is convicted by Witneſ-
" ſes, 1 *Inſtruct*. c. 11. Or he confeſſes after the Accuſation is publiſhed, and §. 32.
" is then to be admitted, but puniſhed more ſeverely; becauſe he would not
" confeſs before he was informed, and made fully to underſtand by the Accu-
" ſation of what Hereſies he was accuſed. Or he confeſſes after being con- §. 33.
" victed by the Witneſſes, *i. e.* after the Publication of the Evidence. For
" altho' ſuch a one doth not ſeem to return voluntarily, who is ſcarce perſuaded
" at length to confeſs his Errors, and beg Pardon, after being tired out with
" the Diſmalneſs of his Jayl, after ſeveral Admonitions, after Accuſation,

" the Publication of the Evidence, six hundred Perjuries, and several Months,
§. 44. " yet inasmuch as being in Prison he confesses of his own Mind and Will his " Errors, without being compelled by Violence, he is adjudged to confess " voluntarily. Farther, they think that he also confesses voluntarily,
§. 45, 46. " whose Confession is violently, *i.e.* by Torture drawn from him. For altho' the first Confession is drawn from him by Torment, yet is it not sufficient to the Proof or Condemnation, unless he afterwards confirms it by " a voluntary Confession. And therefore when the Criminal ratifies of his " own Accord the extorted Confession, they say he is not to be looked upon " as acting herein unwillingly, nor his Confirmation as extorted by Force, " but that 'tis altogether voluntary, and that therefore if the Confession be " just that such a one is to be admitted: And 'tis then accounted just, when " the Penitent testifies it with Tears, Groans, and Humility.

§. 46. " 'Tis also farther inquired, whether a Person is to be received to the Bosom " of the Church after the definitive Sentence, even till he is delivered to the secular Court. Here the Laws determine that Penitents may be admitted " till the definitive Sentence, but that afterwards there is no Place for Pardon " and Mercy.

p. 2. The Opinion of *Royas* is different, who thus proposes and resolves it.
Assert. 15. " 'Tis no small Controversy amongst the Professors of the Law, until what " Term and Time converted Hereticks are to be received. Some say, if " they immediately and voluntarily return after the Discovery of their Er-
§. 192. " ror. Others, that Hereticks may return to the Faith after Sentence, and " are then to be admitted, and may escape the Punishment of being turned " over to the secular Court. Others, that they may be received only till the " pronouncing of the Sentence. Concerning which Matter the *Seville* Instruction treats, *c.* 12. and that of *Madrid*, *An.* 1561. *c.* 4. But if negative " Hereticks are converted in a publick Act of the Faith, their Conversion " is presumed to be feigned and counterfeit, and that they are converted rather thro' Fear of Death, than a Zeal for the Catholick Faith. For this " Reason such a kind of Conversion is very seldom or never to be admitted, " unless very urgent Causes arise, *viz.* if any one should confess his Errors " with many Tears and Signs, and not only those of which he is accused, " but others also, and farther discover his Accomplices, especially if they " are Persons related to him, and beloved by him. By these and other Circumstances, which depend wholly on the Pleasure of the Inquisitors, it may " be examined whether the Conversion be real or feigned. Cap. *Ut officium*, " §. *si vero*, versio, *Proviso solerter*.

§. 197. " Altho' the Conversion of Hereticks and their Confession is to be waited " for during the whole Process of the Trial, yet he who at the Beginning of " the Trial confesses before Accusation, is to be condemned to Imprisonment " and the penitential Habit for a short Season; but if he confesses after Accusation, his Punishment and Penance is to be encreased. But he who confesses his Heresies after the Publication of the Evidence, is to be condemned " to perpetual Prison, because 'tis presumed that he confesses thro' the Fear

" of Proofs, and therefore such a Conversion is not without its Suspicion. *In-*
" *struct. Hispal. An.* 1484. *c.* 14. In all the abovesaid Cases the Effects are
" confiscated, according to the Custom generally observed by all the Inquisi-
" tors. For 'tis in the Power of the Bishop and Inquisitors to mitigate or
" change the Punishment, even after the Sentence is passed. Cap. *Ut Commissi,*
" §. *nec non,* de hæret. 6. 1 *Instruct. Hispal. c.* 8, 11. This Determination
" takes place to this Day, before the pronouncing of Sentence, but after 'tis
" pronounced, the Inquisitor General only can dispense with and change it.
" 5 *Instruct. Hispal. c.* 7. and 4 *Instruct. Tolet. c.* 7. But as to the Confiscation
" of Effects, this is never left to the Pleasure of the Inquisitors, but the com-
" mon Law is ever to be observed, because, from the Time of the Commis-
" sion of the Crime, the Effects of Hereticks are *ipso jure,* confiscated. And
" therefore no one can deprive the Exchequer of this Right.

The third is that of *Camillus Campegius,* who seems rather to relate the O- *In Zanchin. c.* 16.
pinions of others, than to propose his own. " Some say that in the Admis-
" sion to Penance there is need of a Distinction. For either the Judge finds
" the Person to be some simple young Man or Woman, or else otherwise a
" Person of good Condition and Fame, who is fallen into the Crime of
" Heresy. Such ought not to be denied to recant even till the very Sen-
" tence, and especially if there is Reason to hope that they will lead a better
" Life for the future. Or else the Person is one of an evil Condition and
" Fame, found in other Respects criminal, or he hath long persevered in this
" Crime, or hath been otherwise lightly suspected of it, or one of whom there
" is no Reason to hope there will be any future Amendment. The late Repen-
" tance of such a one ought not to be admitted. These Circumstances and
" Cases considered, the Judge may sooner or later admit them to Abjuration
" and Penance.

" There are not wanting some who determine that none are to be received
" who do not return voluntarily, and without Force; and that they only re-
" turn voluntarily who ask Mercy within the Time of Grace, without being
" previously informed against by an Accuser; or at least whilst the Cause re-
" mains untried, they themselves not being corporally taken up, nor con-
" victed by Proofs. For in these Cases they don't appear to return voluntarily,
" but thro' Fear of being apprehended, and of the Proofs. But this Opi-
" nion is rejected by others as too severe; because it would follow from hence,
" that such a one, willing to return, could not be more gently treated than
" an obstinate Person, inasmuch as he must be condemned without Hope of
" Pardon equally with one obstinate. Besides, the Text, *Extra. de hæret. c.*
" *ad abolendam,* and C. *penult,* expresly says, that Hereticks may be received
" after the Discovery of their Error.

By comparing these Opinions together, it appears, that they are all of this Mind, that in order to any one's being admitted to Repentance, he must manifest it before Sentence is pronounced. They especially require that he signify it before Sentence given, or at least before Publication of it. But if he remains impenitent, he is persuaded not only before he is brought out in Procession,

ceſſion, but even on the very Scaffold, and oftentimes, and moſt earneſtly admoniſhed to forſake his Errors and abjure. The Method of doing it is this. The Sentences of the Penitents and Converts, if any ſuch there be, are read firſt, and laſt of all thoſe of the Impenitents, if there are any. But before the pronouncing of them, they are admoniſhed before all the People to repent, and at length to be converted, becauſe there is yet Room for Mercy. If they ſay they will be converted, they are carried back to Jayl, and admitted to Penance. If they perſevere obſtinate and impenitent, the Sentence is read, and they are delivered to the ſecular Court, that being burnt in ſight of the People, they may ſuffer the Puniſhments due to their Impenitency. But however, as to thoſe who do not convert themſelves till they are actually on the Scaffold, and the Sentence is going to be pronounced, the *Madrid* Inſtruction, *An.* 1561. *c.* 44. adviſes, that they are not to be admitted to Penance but upon the moſt extraordinary Conſiderations; becauſe they appear to be converted rather thro' Fear of inſtant Death, than the Love of true Repentance.

n. 204. 'Tis certainly the Opinion of *Eymerick*, that even ſuch ought to be admitted to Repentance. But *Pegna*, tho' he thinks this Opinion of *Eymerick* to be the ſafer, yet determines that to be the more juſt, which leaves to Criminals Room for Mercy only, till they are brought forth from the Jayls of the Inquiſitors, and that after this they are by no Means to be heard. *Zanchinus*
c. 16. §. 4. *Ugolinus* ſaith, that ſuch a one is ſo far to be received, as that he may eſcape the Puniſhments of the Soul, *i. e.* the Puniſhments of Hell; and therefore may be admitted to the Eccleſiaſtical Sacraments, and abſolved from the Excommunication he was under, if he ſhews Signs of true Repentance; but that he is by no means to be admitted to eſcape corporal or temporal Puniſhment, becauſe he came in too late who ſtaid for his Sentence. *Extra. de hæret.* c. *Super eo.* l. 6. Others ſay this is wholly arbitrary, and depends merely on the Pleaſure of the Judge, whereas others do not think it at all ſafe, that the Life of Penitents ſhould depend on the Will of the Judges.

However, after Sentence pronounced, there is no farther Place for Pardon. And yet there is one Inſtance of *Stephana de Proaudo*, extant, in the Book of the Sentences of the *Tholouſe* Inquiſition, who, being judged an Heretick the Day before, and left as an Heretick to the ſecular Court (from whence it appears that it was not then uſual for thoſe who were left to the ſecular Court to be burnt the ſame Day, on which the Sentence is pronounced, as is now practiſed in *Spain* and *Portugal*) ſeeing on the following Day, *viz. Monday*, that the Fire in which ſhe was to be burnt was made ready, ſaid, on that very Day that ſhe was willing to be converted to the Catholick Faith, and to return to the Eccleſiaſtical Unity. And when 'twas doubted whether ſhe ſpoke this feignedly or ſincerely, or thro' Fear of Death, and was anſwered, that the Time of Mercy was elapſed, and that ſhe ſhould think of the Salvation of her Soul, and fully diſcover whatſoever ſhe knew of her ſelf or others concerning the Fact of Hereſy, which ſhe promiſed to ſay and do, and that ſhe would die in the Faith of the holy Church of *Rome*; upon this

this the Inquisitor and Vicars of the Bishop of *Tholouse* called a Council on the following *Tuesday*, and at length it was concluded, that on the following *Sunday* she should confess the Faith of the Church of *Rome*, recant her Errors, and be carried back to Prison, where it would be proved whether her Conversion was real or pretended; and so strictly kept, that she might not be able to infect others with her Errors. *Eymerick* also gives us an Instance at *Barcelona* in *Catalonia*, of three Hereticks impenitent, but not relapsed, who were delivered over to the secular Arm. And when one of them, who was a Priest, was put in the Fire, and one of his Sides somewhat burnt, he cried to be taken out of it, because he would abjure and repent. And he was taken out accordingly. But he was afterwards found always to have continued in his Heresy, and to have infected many, and would not be converted, and was therefore turn'd over again as impenitent and relapsed, to the secular Arm, and burnt. *n.* 204.

The Author of the History of the Inquisition at *Goa*, gives us another Instance of a very rich new Christian, whose Name was *Lewis Pezoa*, who, with his whole Family, had been accused of secret *Judaism*, by some of his Enemies, and who, with his Wife, two Sons and one Daughter, and some other Relations that lived with him, were all thrown into the Jayl of the Inquisition. He denied the Crime of which he was accused, and well refuted it, and demanded that the Witnesses who had deposed against him, might be discovered to him, that he might convict them of Falshood. But he could obtain nothing, and was condemned as a Negative, to be delivered over to the Arm of the secular Court; which Sentence was made known to him fifteen Days before it was pronounced. The Duke of *Cadaval*, an intimate Friend of the Duke *d'Aveira*, Inquisitor General, had made strict Enquiry how his Affair was like to turn. And understanding by the Inquisitor General, that unless he confessed before his going out of Prison, he could not escape the Fire, because he had been legally convicted, he continued to intreat the Inquisitor General, till he had obtained a Promise from him, that if he could persuade *Pezoa* to confess, even after Sentence pronounced, and his Procession in the Act of Faith, he should not die, tho' it was contrary to the Laws and Custom of an Act of Faith. Upon that solemn Day therefore, on which the Act of Faith was to be held, he went with some of his own Friends, and some that were *Pezoa*'s, to the Gate of the Inquisition, to prevail with him, if possible, to confess. He came out in the Procession, wearing the infamous Samarre, and on his Head the Caroch, or infamous Mitre. His Friends, with many Tears, besought him in the Name of the Duke *de Cadaval*, and by all that was dear to him, that he would preserve his Life, and intimated to him, that if he would confess and repent, the said Duke had obtained his Life from the Inquisitor General, and would give him more than he had lost. But all in vain, *Pezoa* continually protesting himself innocent, and that the Crime it self was falsly invented by his Enemies who sought his Destruction. When the Procession was ended, and the Act of Faith almost finished, the Sentences of those who were condemned to certain Penances having been read, and on the Ap- *Cap.* 38.

proach of Evening, the Sentences of those who were to be delivered over to the secular Court being begun to be read, his Friends repeated their Intreaties, by which at last they overcame his Constancy, so that desiring an Audience, and rising up, that he might be heard, he said, *Come then let us go and confess the Crimes I am falsly accused of, and thereby gratify the Desires of my Friends.* And having confessed his Crime, he was remanded to Jayl. Two Years after he was sent to *Evora*, and in the Act of Faith walked in Procession wearing the Samarre, on which was painted the Fire inverted, according to the usual Custom of the *Portuguese* Inquisition; and after five Years more that he was detained in the Jayl of the Inquisition, he was condemned to the Gallies for five Years.

t. 47. §. 73. Finally, *Simancas* proposes and resolves a Question concerning another Case, *viz.* "Whether an Heretick converted after a definitive Sentence, who says "that he will repent, and discover other Hereticks to the Judges, and is "upon that Account returned to the Inquisitors by the secular Judge, and "makes a full Confession before them, is to be left again to the said secular "Judge. This Question in the former Age was actually debated by the In-"quisitors of *Cuenca*, and after the supream Judges and skilful Men had been "consulted, they unanimously answered, that such a Penitent was not to be "left again to the secular Court; both because he had made a true Confes-"sion before the Inquisitors, and therefore ought not to be delivered up by "them, and because the secular Judge seems to renounce his own Right, by "delivering to the Inquisitors the Heretick that had been turned over to "him." Add to this, that 'tis neither consistent with Goodness nor Equity, that he who is now neither impenitent nor relapsed, should, upon any Account, be delivered over to the secular Power.

CHAP. XXXIV.

How the PROCESS *ends against a relapsed* PENITENT.

Direct. p. 3. *n.* 197. *com.* 45. IF the accused Person is found a Relapse by his own Confession, but penitent, professing that he believes in a Catholick Manner, and is willing to return to the Unity of the Church, the Bishop and Inquisitor send to him two or three good Men, and especially Religious, or Clergymen, zealous for the Faith, neither suspected by, nor ungrateful to him, who, upon some convenient Hour go to him, and after discoursing with him in the first Place concerning the Contempt of the World, the Miseries of this present Life, and the Joys and Glories of Paradise, do afterwards, in the Name of the Bishop and Inquisitor, discover to him, that inasmuch as he is relapsed, he can't escape temporal Death; and that therefore he ought to be careful of the Salvation of his Soul, and prepare himself for the Confession of his Sins, and the Reception

ception of the Sacrament of the Eucharist. And these Admonitions they repeat till he hath confessed his Sins, and humbly desires that the Sacrament of the Eucharist may be given him, because the Ecclesiastical Sacraments are not to be denied to a relapsed Penitent, if he humbly desires them. Cap. *Super eo* de hæret. lib. 6. After having received these Sacraments, and by this Means being, in their Opinion, rightly prepared for Salvation, the Bishop and Inquisitor order the Ballive of the Place, or the chief Magistrate of the secular Court, to be ready with his Attendants such a Day or Hour, in such a Street or Place, to receive from their Court such a Relapse, which they will deliver to him; and that on the same Day, or the Day before he shall make Proclamation by the Crier throughout the City, in all the usual Places and Streets, that on such a Day, Hour and Place, the Inquisitor will make a Sermon for the Faith, and that he and the Bishop will then condemn a certain Relapse, by delivering him over to the secular Court.

Here they differ, whether a condemned Person may be delivered over to the secular Court, on *Sunday*, or a Holy-day. In many Cities of *Europe* 'tis a Custom, that the Inquisitors do not deliver over to the secular Court Relapses, or Impenitents, on a Holy-day, but on some other; and therefore the Criminal, two or three Days before he is burnt, is removed from the Houses or Jayls of the Inquisitors, to the Jayls of the secular Judges. But in *Spain* and *Portugal*, all Things relating to the Act of Faith are done on some Festival, to strike the greater Terror into the People.

In like Manner they are not all agreed, whether when the Criminals are delivered over to the secular Court, the Act of Faith ought to be celebrated within the Church, or without it. In *Spain* and *Portugal* such publick Acts of Faith are held without the Church, and, generally speaking, in a large and open Street or Market, and upon very high Scaffolds, that all the People may more easily and clearly see, which could not be done so conveniently within the Church.

Matters being thus ordered, if the Person to be delivered over to the secular Court is in holy Orders, a Priest, or of any other Degree, he is, before he is turned over, stripped of the Prerogative of the whole Ecclesiastical Order, or, as they call it, degraded, that being deprived of every Dignity that might exempt him from the secular Power, he may be delivered over to it. *n.* 198.

This Degradation is twofold, one verbal, the other actual. The verbal is, when the Bishop pronounces Sentence against a Clergyman, by which he deprives him of all Clerical Orders, or rather of the Ministry or Execution of those Orders, which is more properly Deposition. The actual is, when the Clergyman is not only deprived by Sentence, but also deprived actually and personally, stripped and despoiled of his Ecclesiastical Orders; and this takes Place in the Crime of Heresy, when the Person is to be deliver'd over to the secular Court. But if he is only to be perpetually imprisoned, they only make use of verbal Degradation.

In order to an actual Degradation, a certain Number of Judges was formerly required. In the Case of a Bishop, twelve Bishops were requisite; of a Presbyter, six Bishops; and of a Deacon, three. But because in the Affair of Heresy, it would be difficult for so many Bishops to assemble, to degrade a Religious, already judged by the Judges of the Faith, the Bishop, according to a Power granted by *Gregory* IX. calls together the Prelates, Abbots and Religious Men of his Diocese, to be present on the Day appointed for this Ceremony. The Bishop himself, cloathed in his *Pontificalibus*, assisted by the Prelates of his Diocese, places before him the Person to be degraded, cloathed with all his Vestments, just as if he was going to divine Service, and degrades him from his Order, beginning with the highest, and so gradually descending to the lowest. And as in conferring Orders, the Bishop uses a Form of Words appointed by the Church for this Purpose; so also in degrading, when he deposes him from the Cloak and the Gown, and other Degrees, he uses Expressions quite the contrary, by which he declares he deprives him of this Order.

So that the conferring of Orders, and the Degradation from them are performed in a Manner, and with Ceremonies directly contrary to each other. For when Orders are conferred, they begin from the lowest till they gradually rise to the highest. First, they confer the Order of the Door-keeper. The Bishop takes the Keys from the Altar, and delivering them to him when he appoints a Door-keeper, says, *Do this as one who must give an Account to God for the Things locked up by these Keys.* The Bishop ordains the Reader with this Ceremony. The People being present at his Ordination, the Bishop delivers him a Book, in which are written the Things belonging to his Function, saying, *Receive it, and be thou a Rehearser of the Word of God, and if you faithfully and profitably fulfill your Office, have part with those, who from the Beginning have administred well the Word of God.* The Bishop ordains an Exorcist, by delivering to him a Book, in which the Exorcisms are contained, using this Form of Words, *Receive and commit to Memory, and have Power of laying Hands upon the Possessed, whether baptized, or Catechumens.* In the Ordination of an Acolythist, this Ceremony is observed. After the Bishop diligently admonishes the Persons to be ordained of their Office, he delivers to each of them Wax-lights, after this manner. *Receive the Candlestick with the Wax-light, and know that you are ingaged to light the Tapers of the Church, in the Name of the Lord.* Then he delivers to him the empty Flaggons, in which they serve up Water and Wine at the Sacrifice, saying, *Receive the Flaggons to minister Wine and Water for the Eucharist of the Blood of Christ, in the Name of the Lord.* When the Bishop ordains Sub-Deacons, he admonishes them, that the Law of perpetual Continence is injoined this Order, and declares that no one is taken into the Order of Sub-Deacons, who is not voluntarily determined to submit to this Law. After this, when the solemn Prayer of the Litanies is said, he enumerates and explains what are the Duties and Functions of the Sub-Deacons. When these Things are done, all those who are to be ordained, receive from the Bishop the Chalice and sacred Pattens; and from the

the Hands of the Arch-Deacon, to let them know that the Sub-Deacon is to assist the Deacon's Office, the Flaggons full of Wine and Water, together with the Bason, and Napkin with which they wipe their Hands; and the Bishop says, *You see what Ministry is hereby committed to you, therefore I admonish you, so to behave your selves, as that ye may please God.* Besides this, they use some other Prayers. At last after the Bishop hath put the sacred Vestments on the Sub-Deacon, at every one of which proper Words and Ceremonies are used, he delivers him the Book of the Epistles, and says, *Receive the Book of Epistles, and receive Power to read them in the holy Church of God, as well for the Living as for the Dead.* In the Ordination of a Deacon the Bishop uses a greater Number of more solemn Prayers, and adds other Ornaments of sacred Vestments. Besides this, he lays his Hand on him, and finally delivers him the Book of the Gospels, with these Words. *Receive Power to read the Book of the Gospel in the Church of God, as well for the Living as for the Dead, in the Name of the Lord.* The Bishop ordains a Priest with these Rites. In the first place, he, with all the Priests who are present, lay their Hands on him; then fitting the Vest to his Shoulders, he brings it over on his Breast in Form of a Cross; after this he anoints his Hands with holy Oil, and delivers him the Chalice with the Wine, and the Patten with the Host, saying, *Receive Power of offering Sacrifice to God, and of celebrating Masses, as well for the Living as for the Dead.* At last he lays his Hands again upon his Head, saying, *Receive the Holy Ghost, whose Sins you remit, they shall be remitted to them, and whosesoever you retain, they are retained.*

Degradation is performed by Words and Ceremonies directly contrary. We have an Instance of this in the Book of the Sentences of the *Tholouse* Inquisition, in one *John Philibert*, a Presbyter, who had joined himself to the *Valdenses*, and whom by Order of the Pope, the Arch-Bishop of *Tholouse*, in the Room of the Bishop of *Aux* his Diocesan, who was dead, degraded from all his Orders in the Presence of the Abbots, and Prelates, or their Vicars, and delivered over to the secular Court. For after he was set before them in his Sacerdotal Vestment, they stripped him of all his Ornaments, using certain Expressions. The Chalice and Patten: *We take from you the Chalice and Patten, and strip and deprive you of the Office and Power of offering Sacrifice to God, and of celebrating any Mass.* The Priest's Vest: *We take from you the Priest's Habit or Vest, since you have despised to wear the easy Yoke of the Lord represented by it, and to preserve the Vest of Innocence.* [To this Ceremony there is another immediately subjoined, which was observed in the Degradation of one *James*, a pretended Minorite. "After this the Bishop immediately takes out the Anointing, by slightly scraping with a Piece of Glass, so as not to draw Blood, those Places of the Hands which had been anointed, drawing the Glass from the right Hand Thumb to the left Hand Fore-finger, and then again from the left Hand Thumb to the right Hand Fore-finger, as is the Manner when the Bishop anoints any Person for a Priest." And thus by taking away all the Marks of the Priesthood, he is deprived of the Ornaments of the other Orders.] The Surplice: *We take from you the*

fol. 137.

Lib. Catenat. fol. 105.

Surplice, the Ornament of the Diaconal Office, since you have not worn it as the Covering of Gladness, and the Garment of Salvation. The Book of the Gospels: *We take from you the Book of the Gospels, and strip and deprive you of the Office and Power of reading in the Church of God.* The Diaconal Vest: *We take from you the Diaconal Vest, and strip and deprive you of the Power of exercising the Diaconal Office.* The Chalice, Patten, Flaggon, Water, Bason and Napkin: *We take from you the Chalice, Patten, Flaggon, Water, Bason, Napkin, the Instruments of the Sub-diaconal Office, and strip and deprive you of the Use of them.* The Sub-Deacon's Tunick: *We take from you the Tunick, the Ornament of the Sub-diaconal Office, since you have not used it to Righteousness and Salvation.* The Maniple *: *We take from you the Maniple, the Ornament of the Sub-diaconal Office, and we strip and deprive you of the Ministry designed thereby.* The Book of the Epistles: *We take from you the Book of the Epistles, and divest and deprive you of the Power of reading them in the holy Church of God.* The Candlestick: *We take from you the Candlestick, and divest and deprive you of the Office of lighting the Tapers in the Church.* The Flaggon: *We take from you the Flaggon, that from henceforth you may not use it in serving up Wine and Water for the Eucharist of the Blood of Christ.* The Book of Exorcisms: *We take from you the Book of Exorcisms, and deprive and divest you of the Power of laying your Hands upon the Possessed, whether baptized, or Catechumens.* The Book he received when made Reader: *We take from you the Book you received with the Order of Reading, and divest and deprive you of the Power of reading it any more in the holy Church of God.* The Keys: *We take from you the Keys of the Church, and divest and deprive you of the Office and Power of keeping the Things locked up with those Keys, and of opening or shutting the Gates of the Church. By the Authority of Almighty God, Father, Son, and Holy Spirit, and also by the Power committed to us, as aforesaid, in this Affair, we take from you the Clerical Habit, and depose and also degrade you, from all Priestly, and every other Order, and divest and deprive you of every Clerical Honour, Benefice and Privilege. And therefore we farther pronounce and declare to the noble Person, the Lord* Guiardo Guido, *Seneschal of* Tholouse, *here present, that he shall receive you, thus degraded, into his Court. However, we earnestly require and beseech him, that he will so moderate the Sentence concerning you, as to prevent the Danger of Death, and maiming of Limbs.* After these Things his Head is shaved, before the secular Court receives him. [This shaving the Head is performed in this manner. The Bishop begins to pull out some few of the Hairs of his Head with Nippers, after which the Barber finishes it with a Razor, so that there remains on it no Mark of his Tonsure or Clericate.]

Lib. Catenat. fol. 106.

After the Degradation is performed, Sentence is pronounced against him as a Relapse, and he as such, altho' penitent, is cast out of the Ecclesiastical Court, and delivered to the secular Arm. But they generally add this Clause to such Sentences, by which a Relapse, or impenitent Heretick, or any other, is delivered to the secular Arm. *Nevertheless we effectually beseech the said secular Arm, that he will moderate his Sentence concerning you, so as to prevent the*

* *Manipulus.* An Ecclesiastical Vestment, called also the *Sudarium*, which the Priests wear on the left Arm.

Effusion

Effusion of Blood, and Danger of Death; according to Cap. *Novimus*, de verb. sign. where, after 'tis commanded that a Clergyman degraded shall be delivered to the secular Court, 'tis added, *For whom neverthelesss the Church ought effectually to intercede, that the Sentence may be moderated, so as to prevent Danger of Death*; *viz.* least the Inquisitors, when they deliver Criminals to the secular Judges, should seem to consent to the Effusion of Blood, and thereby become irregular.

When this Sentence against a Relapse is concluded, the Bishop and Inquisitor don't shew it to the Criminal, lest he should be enraged against them; but they send to him certain good Men, especially Religious or Clergymen, not unacceptable to him, who discover to him the Sentence to be pronounced against him, and the Death to be inflicted on him, to confirm him in the Faith, to exhort him to Patience, to accompany him after his Sentence, to comfort him, and pray with him, and not to depart from him, till he hath returned his Spirit to his Creator. But they must diligently take Care, that they do not say or do any Thing by which the Death of the relapsed Person may be hastned, *viz.* by exhorting him when condemned, to offer his Head to the Executioner, or to go up the Ladder, or to say to the Hangman so to direct his Sword, as to strike off his Head at one Blow, and not at several, or to say or do, or persuade to any Things of like kind, by which his Death would be sooner effected, altho' the same would have hapned, altho' these Words or Actions had never been; because they contract Irregularity by these Things. Who would not believe that these Men detested with all their Soul every Effusion of Blood, who so effectually intercede for the Condemned, and are so extreamly careful not to say or do any Thing by which their Death may be hastned? Here some think, that such Penitents relapsed ought to be allowed Ecclesiastical Burial, as well as all other Catholicks. But this is contrary to Law and Custom, because their Bodies are burnt with Fire. In this Respect however they are dealt more favourably with, than the Obstinate and Impenitent, inasmuch as these latter are burnt alive, whereas the others are strangled before they are burnt, which, as *Simancas* says, is more human, and leads to Repentance. *Tit.* 47. §. 17. *n.* 200.

CHAP. XXXV.

How the PROCESS *ends against an impenitent* HERETICK, *and impenitent* RELAPSE.

IF the accused Person be an impenitent Heretick, but not relapsed, he is kept in close Imprisonment, and put in Chains, that he may not escape and infect others; nor is any one allowed to come to him, or to speak with him, except the Keepers, who must be good Men, and not suspected concerning the Faith, nor easy to be deceived. In the mean while all Methods must be used for his Conversion, according to the Decree of the Council of *Biterre*, c. 17. *Those who will not be converted, be slow, as you conveniently can, to* *Direct. p.* 3. *n.* 201. *com.* 46.

condemn

condemn them, admonishing them frequently by your selves and others to confess; and if they are finally obstinate in their Wickedness, cause their Errors to be publickly declared, in Detestation of them, and leave them thus condemned to the secular Powers present, or their Ballives, according to the Apostolick Command. Herewith the *Madrid* Instruction, *An.* 1561. *c.* 43. agrees. *When the Criminal is negative, and hath been legally convicted of the Crime of Heresy of which he was accused, or continues obstinate, 'tis evident from the Law that he ought to be delivered to the secular Court. However, in such a Case, the Inquisitors ought greatly to endeavour his Conversion, that at least he may die in the Grace of God. And here they must do all they can consistent with Piety.* So that the Bishop and Inquisitor frequently, sometimes both together, sometimes apart, must cause him to be brought before them, to refute his Opinions, and persuade him into the Faith of the Church of *Rome.* If he doth not submit to their Information, ten or twelve Persons are sent to him to instruct him, learned Men, Clergymen of different Religions, and secular Lawyers, who frequently converse with him, to shew him that his Opinion is contrary to the sacred Scripture, and the Decrees of the Church of *Rome.* If he is not converted, he is not immediately delivered to the secular Arm, tho' he desires it, but is kept in Chains a long while, half a Year, or a whole one, in a hard and close Jayl, that by the Misery and Distress of his Imprisonment, his Constancy may be overcome. In the mean while he is frequently admonished, that if he persists he must be burnt, and after this Life burn in Hell Fire for ever. But if he is not moved by this Calamity, he is removed into a somewhat more comfortable Jayl, and used in a little kinder Manner. They also make use of Promises, that if he will turn, he shall experience the Mercy of the Judges. If they can neither prevail with him by this Means, they suffer his Wife and Children, especially his little ones, if he hath any, and his other Relations, to come to him, to break his Resolution and Constancy. But if after all these Methods used he persists in his Opinion, the Bishop and Inquisitor prepare to deliver him over to the secular Court. When therefore the Sermon concerning the Faith is held, the Inquisitor causes his Faults and Heresies to be read over by the Notary, or some other Clergyman, and then asks him whether he will depart from his Heresies and abjure them? If he consents to abjure, he is admitted; and having made his Abjuration, he was condemned in the Times of *Eymerick* to perpetual Imprisonment, because he was believed to abjure rather thro' Fear of Death than the Love of Truth. And if he was a Clerick, he was degraded from his Orders, by a verbal Degradation only, *i. e.* he was deposed from the Function of his Ministry.

But if in this Condition he will not repent and abjure his Opinions, as is commonly the Case with such Persons, he is condemned as an obstinate Heretick, and as such delivered over to the secular Court. Cap. *ad abolendam,* §. *Præsenti,* Extrav. de hæret. And whilst the secular Court is performing its Duty, some good Men, and zealous for the Faith, may attend him, and persuade him to the Catholick Faith, and exhort him as yet to turn from his Errors. And 'tis the Opinion of *Eymerick,* that if even then he will be converted,

verted, he may be admitted to Repentance. But *Pegna* judges it more safe, not to receive him by any Means, altho' he promises a thousand times his Conversion; both because 'tis provided for by no Law, and because Experience shews us that Persons thus received, seldom or ever become good.

If an Heretick impenitent or relapsed be present, the Bishop and Inquisitor, in Presence of the Magistrate of the secular Court, Cap. *Excommunicamus*, 1, 2. *Extrav. de hæret.* declare him impenitent, or relapsed, cast him out from the Ecclesiastical Court, and leave him to the secular Arm, or to the Jurisdiction of the secular Court. And the secular Court, which is in that Place, receives him as one left to their Court and Arm. If he be absent and fugitive, he is by Sentence declared impenitent or relapsed, and cast out from the Ecclesiastical Court, and left to the secular Arm; and whenever the secular Court can lay hold of him, he is punished as one obnoxious to that Court, according to the Nature of his Crime, Cap. *ad abolendam*, §. *Præsenti*, Extrav. de hæret.

If the accused Person be an Heretick impenitent and relapsed, all Reme- *n.* 205. dies are to be made use of for his Conversion, and he is closely and carefully confined, and no one admitted to him. But he can't escape Death. And therefore they exhort him, inasmuch as he can't avoid the Punishment of Death, to consult at least the Salvation of his Soul, to confess and receive the Sacrament of the Eucharist. Behold the amazing Charity of these reverend Fathers, who when they deliver a penitent Criminal to Death, are so solicitous about the Salvation of his Soul! But whether he repents or not, he is delivered to the secular Court, with a very earnest Intreaty, so to mitigate their Sentence concerning him, as to prevent the Effusion of Blood, and Danger of Death.

CHAP. XXXVI.

How the PROCESS *ends against a Negative* HERETICK *convicted.*

IF the Person accused be found in Heresy either by the Evidence of the *Direct.*
Fact, or the legal Production of Witnesses, and yet he doth not confess *p.* 3.
it, but persists in the Negative, he is at this Day called a convicted Nega- *n.* 207.
tive Heretick. Concerning these the Council of *Biterre* hath thus determined. *com.* 48.
Cap. 6, 7, 8, 9. *As to those who are Criminals, and contemn to appear within the Time of Grace, or maliciously suppress the Truth, let each of them be cited by Name in their Turn; and if they will not confess the Truth found against them, read over to them the Heads of the Matters in which they are found criminal, and discover to them the Depositions of the Witnesses, and granting them competent Times, and allowing them the Liberty of defending themselves, receive candidly their legal Exceptions and Replications. And if they fail in their Defence, assign them a competent peremptory Time for their Sentence, and condemn them, unless they will of their own Accord confess the Crime proved against them. For they are not to be received to Mercy whilst they persist in their Denial, how much soever they submit themselves to the Will of the Church.* Thus also the Council of *Narbonne*, c. 26. *But if any*

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one is not afraid obstinately to deny his Fault, upon account of which he may be judged a Believer of Hereticks, or an Heretick, and which is fully proved by Witnesses, or other Proofs, as long as he persists in this Denial, tho' otherwise he may pretend Conversion, he is, without Doubt, to be accounted an Heretick. For he is evidently impenitent, who will not confess his Sin. In *Spain* the same Opinion and Sentence is openly declared for by the first *Seville* Instruction, *An.* 1484. *cap.* 14. where also 'tis provided, that as often as such a Case should occur, the Inquisitors should diligently inquire into the Life and Manners of the Witnesses. An Heretick is also judged to be impenitent, altho' he protests himself to be a Believer, not only when he is convicted of the Heresy he hath said, but also of any heretical Fact, by which he may be judged to be an Heretick, or Believer of Hereticks. This is to be understood of one, who denies the heretical Fact of which he is legally convicted; and not of him who confesses such heretical Fact, but denies the evil Intention. And these are the Reasons alledged why such a one may be condemned as an impenitent Heretick. Because if the Heresy of such a Negative is fully and legally proved, it appears to the Church, that such a one is an Heretick, and therefore unless he confesses and detests his Errors, he is deservedly delivered to the secular Court, as an impenitent Heretick. Besides, he who doth not admit the Errors legally proved against him, doth not satisfy the Church, tho' he protests that he holds the right Faith, the Church first demanding Satisfaction for the Heresies proved, which he denies that he ever said. And therefore not being amended, he may be condemned as an Impenitent, because Pardon of Sin is granted to no one without Amendment. And finally, Confession is necessary to true Repentance, nor doth he deserve to obtain Pardon, who doth not acknowledge his Sin; and therefore as a Negative doth not confess his Crime, he is accounted as Impenitent, and therefore is deservedly to be left to the secular Court. *Nor let any one affirm,* says *Pegna, that he is by this Means unjustly condemned, nor complain of the Ecclesiastical Judges, or of the Judgment of the Church which hath thus determined, and which doth not judge of any Thing that is secret. But if it should happen that any one is convicted by false Witnesses, let him bear it with Patience, and rejoyce that he suffers Death for the Truth.* But before such a Sentence can take place, 'tis, according to their Doctrine, required: First, that the Person be convicted either of true and formal Heresy, *viz.* saying there is no Purgatory, and not of a scandalous, rash or ill-sounding Assertion, and the like; or of Facts from which arise Heresy or Apostacy. And here there is Need of great Prudence. Secondly, 'tis required that the heretical Words, of which a Negative is convicted, be certain and clear, and not dubious or doubtful, capable of a double Sense, one heretical, the other catholick; because as doubtful Expressions are to be interpreted in the best Sense, the Catholick Sense is to be received, and the heretical Sense rejected. Thirdly, that one guilty of an Heresy which he denies, be convicted by legal and proper Witnesses, above all Exception, and not by Enemies, or single Witnesses, or others unfit. Fourthly, that the heretical Fact or Saying, of which the Criminal is convicted, be lately done, and not an old

Pegna, *in Direct. part.* 3. *p.* 565.

Matter,

Matter, which the Criminal may be supposed likely to have forgot; because in a Matter done a great while ago, such Forgetfulness may be presumed. Lastly, that a Negative be convicted by Witnesses to have asserted, that he doth so believe himself, and that others ought to believe so too.

Such a Negative is kept in hard Confinement, and laid in Irons, and is by the Bishop, Inquisitor, and others oftentimes admonished to confess the Truth, with the Hopes of Mercy if he doth, and the Threatning of being delivered to the secular Court if he persists in the Negative. If he still persists in the Denial, the Bishop and Inquisitor, either separate, or together, privately examine the Witnesses themselves, and by other good Men, and admonish them to tell them the Truth privately, that the accused Person may not die unjustly. If the Witnesses persist in the Affirmative, and the Party accused in the Negative, they are examined with greater Care; not that the Witnesses are confronted with the Person they accuse, that they may be examined together. 'Tis only recommended to the Inquisitors to use Prudence in searching out the Truth, lest it should happen that an innocent Person, who can't fully defend himself, should be unjustly condemned. Thus the *Madrid* Instruction orders, *An.* 1561. c. 38. *That the Inquisitors should carefully consider in the Defences of the Criminals, that being confined in secret Jayls, they can't so conveniently defend themselves, and that therefore they ought to supply this Defect by their Diligence and Prudence, in inquiring particularly into the Life, Manners, Enmity or Conspiracy of the Witnesses.* If any one of the Witnesses faulters, or if there are other Signs against him, they are taken notice of, that the Truth may be found out. If they are found false Witnesses, or if they retract their Evidence, the accused Person is pronounced and dismissed as innocent, and they themselves condemned to perpetual Imprisonment, and oftentimes exposed as publick Spectacles upon Ladders before the Gates of certain Churches, and their Lives only mercifully spared them. But if the Witnesses persist, and the accused Person persists also in the Negative, having been kept in Jayl for a competent Time, *viz.* a Year, he is at last, by the Sentence of the Bishop and Inquisitor, cast out of the Ecclesiastical Court as obstinate and impenitent, and delivered over to the secular Arm. So that if it should happen that he is accused by false Witnesses, and is really innocent, the miserable Wretch, tho' falsly condemned, is delivered to the Power of the secular Court, to be burnt alive; nor is it lawful for him, without the Commission of mortal Sin, as the *Roman* Doctors think, to save his Life, by falsly confessing a Crime he hath not committed. And therefore in this Case, tho' it may seem very hard to such a Negative to die when he is innocent, and for this Reason he may possibly believe it lawful for him to confess the Crimes objected to him to save his Life, yet this is not to be suffered by any Means; and therefore 'tis the Duty of the Divines and Confessors, who comfort such a Negative, and attend on him to his Punishment, to persuade him to discover the Truth; but to caution him by all Means not to acknowledge a Crime he hath not committed, to avoid temporal Death; and to put him in Remembrance, that if he patiently endures this Injury and Punishment, he will be crowned as a Martyr.

Pegna, p. 567.

'Tis however evident, if the Practice of the *Portugal* Inquisition be considered, that the Inquisitors are not so very solicitous about the eternal Salvation of those they condemn, as they are to consult their own Honour by the Criminals Confessions even of false Crimes. We have seen the Instance of *Lewis Pecoa*, given in Chapter xxxiii. who being led forth in solemn Procession at an Act of Faith, and being at last overcome by the continued Prayers and Tears of his Friends, said, *Come then, let us go and confess the Crimes I am falsly accused of, and thus satisfy the Desires of my Friends*; and having made his Confession, he was saved from the Sentence of Death. The same History of the Inquisition at *Goa*, in the preceding Chapter, gives us another not less remarkable Instance, of a noble *Portuguese*, descended from the Race of the new Christians, who was accused of *Judaism*. But as he did most firmly deny the Crime objected to him, nothing was omitted that might persuade him to a Confession of it; for he was not only promised his Life, but the Restitution of all his Effects, if he would confess, and threatned with a cruel Death if he persisted in the Negative. But when all this was to no purpose, the Inquisitor General, who had some Respect for him, endeavoured to overcome his Constancy by Wheedling and other Arguments; but when he constantly refused to confess himself guilty of a Crime he had not committed, the Inquisitor General being at last provoked by his Firmness, said, *What then do you mean? Do you think that we will suffer our selves to be charged with a Lye?* And having said this he went off. These Words of this Judge, says the History, carry in them a very unbecoming Meaning, and raise Reflections dishonourable enough to the holy Office. For 'tis almost the same as if he had said, we will rather deliver you, tho' innocent, to the Fire, than suffer any one to believe that you were unjustly imprisoned by us. When the Act of Faith drew near, the Sentence of Death was pronounced against him, and a Confessor allowed him to prepare him for Death. But at last he sunk under the Fear of his approaching dreadful Punishment, and by confessing on the very Day of the Act of Faith the Crime falsly fastned on him, he escaped Death; but all his Estate was confiscated, and he himself condemned for five Years to the Gallies.

p. 2. t. 1. § 10. *Carena* observes, that it sometimes happens, that a Negative Heretick, given over by the Inquisitors to the secular Arm, cites and challenges them to the Valley of *Jehosaphat*, or the Tribunal of God. But if it appears to the Judge that he hath proceeded justly in the Condemnation of a negative Heretick, he ought not to be afraid of his Citation. But if the Judge should not be certain of the Justice of his Sentence, but perceived any Disturbance in his Mind when he pronounced it, then 'tis his Duty more maturely to inquire into all Circumstances, that the former Sentence may be either revoked or confirmed. In the mean while they say, that if such Citation and Appellation be made not thro' Hatred and Revenge, but with a good Design, that his Innocence may appear, and his Family be preserved from Infamy, it is lawful.

Because

Because Negatives constantly deny the Crime of Heresy, and profess that they are, and always were Catholicks, and are willing to die in the Faith of the Catholick Church, they are first strangled before they are burnt. But *Souza* says, that Hereticks convict and negative, if after they are delivered to *l. 3. c. 6.* the secular Judge, they do not confess before him the Catholick Faith, are *§. 11.* burnt alive; because, as it appears that they are Hereticks, so by being silent when they ought to answer, they are looked upon as obstinate. Thus it was actually judged by all the Judges of the Council of Supplication in the City of *Lisbon*, *An.* 1629. the second *Sunday* of *September*, and twelfth Day of that Month, when, in an Act of Faith then celebrated, three Men, *Hebrews* by Birth, and called new Christians, were delivered over by the Inquisitors to the secular Court for *Judaism*, of which they were convicted; who, persisting in the Negative, affirmed before the Inquisitors that they were Christians. And being brought before the secular Judges, and interrogated concerning the Faith, would make no Answer; upon which they were delivered over to the Officers to be burnt alive, and were accordingly burnt alive.

CHAP. XXXVII.

How the Process *ends against a Fugitive* Heretick.

IF the accused Person be a Fugitive, after he is waited for a competent *Direct.* Time, he is cited by the Bishop or Inquisitor in the Cathedral Church of *p. 3. n. 212.* that Diocese where he hath offended, and in other Churches of that Place where *com. 49.* he lived, and particularly from whence he made his Escape, personally to appear on a certain Day in such a Cathedral Church of such a Diocese, there to hear, upon a certain Hour, his definitive Sentence before them, to which they add, whether he appears or not, that they will proceed against him to a definitive Sentence, as Law and Justice require. This Citation is fixed upon the Gates of the Cathedral Church. In this Citation some Delay is granted, *viz.* of thirty Days, and that is peremptory, so that this single one serves for three, in which the Criminal is cited to all and singular the Proceedings of his Trial.

If the Criminal doth not appear, his Contumacy is complained of in the several Terms of the Edict, and the Fiscal of the Inquisition puts in his Bill of Accusation, after which the Process is carried on according to Course of Law, observing the Custom and Laws of the holy Office. When all this is finished, if the Crime really appears, Sentence is pronounced against the Criminal whenever the Process is rightfully and legally determined. If he hath been informed against for Heresy, he is declared an obstinate Heretick, and as such left to the secular Arm. If informed against as one suspected of Heresy, and if excommunicated, because he would not appear, and if remaining under the Sentence of Excommunication for a Year, he is not pronounced

ced an Heretick, but condemned as tho' he was one. But if upon the Expiration of the Year he appears, he is heard as far as relates to the excusing his Crime, and testifying his Innocence; but not in order to recover his Effects, unless he can make his Innocence, or some other just Impediment legally appear. If he is in sacred Orders, he is first degraded, by a verbal Degradation only, because he cannot be actually degraded, inasmuch as he is absent. But *Eymericus* thinks, that the Person, thus degraded, is not to be left to the secular Arm, but that if he will repent, he may freely, and without the Question be admitted to Mercy and Abjuration.

Pegna, *in Direct. part.* 3. *com.* 91.

This whole Affair is prescribed the Inquisitors of *Spain*, by a certain first Instruction, Cap. 19. *They have likewise decreed, that the Inquisitors may proceed against Criminals in the said Crime of Heresy, altho' absent, by citing the aforesaid absent Persons by publick Edicts, which they shall cause to be published and fastned to the Doors of the principal Church of the Place or Places where they dwelt. Now the Inquisitors may form Processes against Absentees by one of these three ways. First, according as 'tis prescribed,* Cap. cum contumacia, *de hæret.* lib. 6. viz. *by citing and admonishing the Absentees to appear to defend themselves, and answer, according to Law, upon certain Articles relating to the Faith, and upon a certain Crime of Heresy,* &c. *under Pain of Excommunication, with their Admonitions in Form. But if he doth not appear, they shall command the Promotor Fiscal to accuse him of Contumacy, and to demand Indictments or Bills more fully charged, by which he may be denounced. But if he continues in his Obstinacy for the Space of a Year, they may declare him an Heretick in Form of Law. And this Method of Process is the safest, and least severe. The second way is this, That if it shall appear to the Inquisitors, that the Offence ought to be fully proved against any Absentee, they may cite him by Edicts, as aforesaid, to come and answer and declare according to his Right, and to shew his Innocence within* 30 *Days, divided into three Terms, every Term consisting of ten Days; or they may allow them a longer Time, if they think proper, according to the Distance or Remoteness of the Places, in which 'tis or may be presumed that the aforesaid cited Persons dwell; whom they ought to cite to all the Acts of the Process, even to the definitive Sentence inclusively; in which Case, if the Criminal doth not appear, his Contumacy shall be complained of in all the Terms of the Edict, and the Inquisitors may receive his Denunciation and Accusation from the Fiscal, and draw up his Process in Form. And when all this is done, if the Crime appears to be sufficiently proved, they may condemn the Absentee, without waiting for him any longer. The third Method to be observed in drawing up the Process against the Absentee, is this; that if in the Management of the Process made in the Inquisition, there appears to be a Presumption of Heresy against the Absentee, altho' the Crime doth not seem to be fully proved, yet the Inquisitors may order an Edict against such Absentee noted and suspected of the Crime of Heresy, and command him to appear within a certain Time to free himself, and canonically to purge himself from the said Error or Crime; with this Addition, that if he doth not appear to receive and perform the aforesaid Canonical Purgation, or doth not free or purge himself, they will look on him as a Convict, and proceed to act according to Law. And this Form of Process is a little too severe; but still 'tis rightly founded upon Law, and prudent*

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and learned Inquisitors may chuse a Method which they judge more safe, and may be better used in Practice, according to the different Causes that may arise.

And lest the Sentence against Fugitives may seem to be pronounced in vain, 'tis usually published before all the People, and the Image, or, as they commonly call it, the Statue of the absent Person is publickly produced, on which there is a Superscription fixed, containing the Name and Surname of the absent obstinate Person who is condemned, which Statue is delivered to the secular Power, on which he executes the Sentence and Penalty of Burning, as he would do upon the absent Person himself, if he were present, unless he would turn, or upon a Person otherwise relapsed. Thus, as *Lewis a Paramo* tells us, the Statue of *Sigesmond Malatesta* was burnt at the Gates of St. *Peter*; and the Statue of *Luther*, after he had been cited, and did not appear, was also burnt, together with his Books, at the Command of *Leo* X. by the Bishop of *Ascoli*, and *Silvester Prieriates*. Pegna, Ibid. p. 574. l. 2. t. 2. c. 1. n. 6.

When this Custom of burning the Statues of absent Criminals began, is uncertain. *Pegna* believes it not to be very antient, because neither *Eymerick*, who, with great Diligence, hath treated of every Thing relating to Practice in this Crime, nor any other of the Antients, who have written of the Order of proceeding against Hereticks, have mentioned this Custom; nor is there to be found any single Trace of it in the *Vatican* Copy, nor in that of the most illustrious Cardinal *Sirletto*, where there are many Things, and even the most minute Things concerning the Method of judging and punishing Hereticks. But yet he thinks it very commendable, and proper to strike Terror, and therefore altogether fit to be used.

CHAP. XXXVIII.

Of the Method of proceeding against the Dead.

PRocess is also carried on against the Dead for the Crime of Heresy. Now it may happen several ways, that a Person may be judged an Heretick after Death. *First*, If before his Death the Inquisition against him was begun, and his Crime appeared either by his own Confession, or the Evidence of the Fact, or the legal Proof of Witnesses, and the Criminal dies before the Process is ended, either confessed and impenitent, or negative or relapsed. *Secondly*, If being in Jayl for Heresy he kills himself, for by thus destroying himself, he seems to confess the Crime. *Thirdly*, If, tho' when alive, his Heresy did not appear, and he was not accused of it, yet, if after his Death, it at any time appears that he died an Heretick, either by the Depositions and Attestations of others, or by Facts, or Deeds, or Books composed by him, or by any other legal Reasons. This Process is carried on against the Dead before this Tribunal, chiefly for these three Ends; That their Memory may Direct. p. 3. Qu. 43. com. 92.

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be condemned, that the Heirs of the Dead, or any other Possessors of their Effects, may be deprived of them by the Fiscal; and finally, that the dead Bodies may be taken up, cast out of holy Ground and burnt, as 'tis determined by the first Instruction of *Seville*, *An.* 1484. *c.* 20.

This Action against the Dead, when carried on in order to the Confiscation of their Effects, is said to last for 40 Years. Thus 'tis determined, *cap.* 2. §. 1. *de præscript. l.* 6. That the Effects of deceased Hereticks shall be the Catholick Childrens and Heirs by Prescription, at the End of forty Years, if so be they have possessed them *bona fide*. The same is determined by the Instruction of *Seville*, *An.* 1484. *cap.* 20. Now the Children and Heirs of the Deceased shall then be said to have possessed his Effects *bona fide*, when, at the Time of his Death, and for the whole Space of forty Years they have believed and understood that the Person deceased died a Catholick. But if within these forty Years they have at any time been informed that he died an Heretick, they shall never plead Prescription, because from that time they began to be in *mala fide*; and if therefore they have been thus in Possession of them, *mala fide*, the Fiscal of the Office of the Inquisition shall seize on such Effects even after forty Years. As to what regards the Condemnation of the Memory of the Dead, such an Action is never hindred or determined by any Intervals of Time. For even when 40 Years and more are elapsed, the Inquisitors may, when ever 'tis discovered and legally proved that any one died an Heretick, carry on an Action against him to condemn his Memory, and declare him to have died excommunicated, and to forbid any one from praying for him, and to dig up his Bones, if possible, that they may be burnt; for he with whom 'tis not lawful to have any Communication when alive, 'tis neither lawful to have it with him when he is dead. But altho' the Children escape this Confiscation of their Estates, if they have been in Possession of them *bona fide* for forty Years, they incur however the other Penalties which the Laws have decreed to the Children of the Condemned, *viz.* Infamy and Incapacity for all publick Offices and Benefices.

Formerly a Father was presumed to die in Heresy, when sick on his Bed, he desired Consolation from any one of the *Albigenses* by Imposition of Hands. And therefore 'twas customary for Children, to prevent their being excluded from their Patrimony, to object that their Parents were not in their Senses when they desired that Consolation. Hence arose a Question, whether such an Excuse ought to be admitted.

'Tis decided, cap. *Filii*, de hæret. l. 6. *The Children or Heirs of those, who, when on their Death-beds have desired Hereticks to comfort them, that they might receive the Consolation from them by Imposition of Hands, according to their most wicked Custom, and thus go the Way of all Flesh, ought not to be admitted to prove, that such deceased Persons received this Consolation, or more truly this Desolation, when they were not of a sound Mind, or after they lost their Speech, since, as 'tis said, 'tis their Custom never to console such a one who is not in his Senses, and hath not his ordinary Memory, if whilst they lived they were defamed for Heresy, or suspected, or if it legally appears that, being in their Senses, they desired such Hereticks. In other Cases the aforesaid Children or Heirs may be admitted to prove the Premises,*

mises, not by their Wives, Children, Acquaintance, or any that belong to them, but by other Witnesses worthy of Credit, and especially by Persons zealous for the Faith.

Here there is a double Method of excusing such Persons proposed. *First*, If it be proved that the deceased Person, when alive, was not suspected or defamed of Heresy, but lived in good Repute, and received the Sacraments of the Church after a Christian Manner, at proper Times, and performed other Things which are usually done by true and Catholick Christians. *Secondly*, If it can be shewn that he was not of a sound Mind, when he desired the Consolation of Hereticks, which must be done one of these two ways: Either by shewing, that he was at a certain Time mad, and that 'tis to be presumed that he committed the Crime whilst the Madness lasted, and during the Time of such Madness; and in this Case the Fiscal or Judge, if he proceeds *ex officio*, must prove, that the Offence was committed when the Person was himself: Or by shewing, that by the Violence of his Distemper he was disturbed in Mind, and deprived of his Reason; for sometimes Persons are delirious in a Distemper, especially in old Age, who in Health were in full Possession of their Senses and Reason. These Proofs must not be made by their Wives, Children, or other Relations, but by Witnesses above all Exception, and in the last Case skilful Physicians are principally to be regarded. If the Children fail in this Proof, their Excuse is not to be admitted.

Farther, since a Criminal at the Article of Death ought to be sacramentally absolved, if he confesses, and is ready to obey the Commands of the Church, according to the first Council of *Orange*, cap. 2. *As to Hereticks who lie at the Point of Death, if they desire to be Catholicks, let the Presbyters, if there be no Bishop to do it, sign them with the Chrism and Benediction*; hence it oftentimes happens, that Persons dying have confessed Heresy to a Priest, and received their Absolution from him. And as no Action can be carried on against the Dead, unless it be presumed that they died impenitent, there arose formerly a Question in the Council of *Tarragona*, whether the Priest, who asserts that he absolved any one from Heresy, ought to be credited? This Question was at that Time of great Importance, because if the Priest affirming this Matter was to be believed, the Inquisitors could not proceed against such a one after his Death. The Matter was thus decided in the Council of *Tarragona*. *It is also inquired: What if any one should confess to his Priest Heresy, or favouring of Heresy, before the Inquisition began against him, and should be afterwards called on by the Inquisitors? In such Case his Confessor must be believed; and if he be found to have rightly confessed by the Confession of the Priest, altho' the Priest hath done ill in not sending him to the Bishop, yet the Person confessing may avoid temporal Punishment by such Confession, unless it be discovered that his Repentance was false, or that he relapsed after his Repentance, or was publickly defamed.*

Direct. p. 2. com. 25.

The Council of *Narbonne* hath made this Determination in the Case, c. 28. *Whether or no the Confessor alone is to be believed concerning the Absolution or Repentance of a dead or living Person, altho' it seems plain enough that he ought not, yet that nothing may be imputed to the Church, let the Answer of the Lord Pope be waited for.* But now this Question is at an end, because Confessors have no Power of

absolving Hereticks. Such a Case may however happen, *viz.* when any one is absolved by Virtue of any Jubilee, in which the Pope grants the Power of absolving from such a Crime: Or when an Heretick absolutely concealed, or mental, is absolved, whose Heresy is afterwards discovered, and himself proceeded against. A like Case may happen in an Heretick, who being about to die, repents, and because there is no room to reconcile him to the Church, according to the ordinary Course of Law, is absolved by some private Priest when at the Point of Death, and afterwards recovers; or if he doth not recover, is accused after his Death to the holy Office.

In these and the like Cases they say, that if any one will make use of the Testimony of a Confessor, yet the Inquisitor ought not to neglect the Course of Law upon account of such a Witness. *Gregory* XIII. in a certain Bull of Jubilee, *An.* 1572. declared, That Persons absolved in the penitential Court, are to be looked on as absolved only in that Court or Judgment, and that therefore they ought to make Satisfaction in the external or judicial Court. And therefore now no Person receives any Advantage by excepting that he received Penance in the internal Court. The Reason is, because penitential Punishment injoined in the internal Court hath this Tendency, that hereby the Penitent may make Satisfaction to God and his Soul. Whereas temporal Punishment regards the Punishment of the Body, and is an Instance of publick Justice, whereby the Commonwealth is satisfied, which hath been injured by the ill Example of the Offender. And as there is a double Punishment, so there is a twofold Judge. One which injoins Penance whereby the Criminal may be freed from eternal and spiritual Punishment, and this is the proper Priest; the other he who injoins temporal Punishment, and this is the Judge of the Place where the Offence is committed, or also the ordinary Judge of the Offender. Hence it follows, that as the Priest is not the proper Judge of this Crime, but the Inquisitor and Bishop, Absolution given by a Priest can't hinder the Process of the proper Judge.

Zanchin. *c.* 34.

However, no Action is to be carried on against a dead Person, or rather his Memory is not to be condemned, unless the Proof be full, according as 'tis determined by the Instruction of *Avila*, An. 1498. c. 4. *Nor let any dead Person be cited to a Trial, nor any Process be carried on against his Memory or Reputation, unless there be full Proof that he may be thereby condemned.* When therefore there are any such preceding Proofs, the Fiscal instantly demands, by putting in a Bill, that such a Criminal may be proceeded against. This Accusation is exhibited to the Children or Heirs, or others whom it may concern, that the Memory of the Deceased should not be condemned, and if there are any Descendants of the dead Person, they are personally cited to defend his Memory, according to the *Madrid* Instruction, *An.* 1561. *c.* 61. Thus also the Council of *Biterre* formerly ordained, *c.* 18. *Proceed in like manner to the Condemnation of Hereticks or their Believers, who have not been canonically reconciled before their Death, giving first a Citation to their Heirs, or others, who, according to Law, ought to be cited, and allow them a proper Liberty of defending them.* And that no one may pretend Excuse or Igno-

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rance, the Children or Heirs of the Deceaſed, or any others whom it may concern, are alſo cited by publick Edicts to come and make a legal Defence for him, and a legal Term is aſſigned them for their Appearance. After ſuch Term is elapſed, if no one of the afore-cited Perſons appears, the Inquiſitors appoint one to undertake the Defence, a pious and faithful Man, and fit for the Buſineſs, who is to propoſe the legal Excuſes and Defences for the Deceaſed. To this Perſon they communicate the Accuſation and Evidence againſt the Deceaſed, and injoin him Secreſy, and to confer concerning the Affair only with the Advocates of the holy Office, that ſo the Proceſs may be carried on according to the due Order and Courſe of Law. But if any one appears, he is admitted to defend the Deceaſed's Memory. Nor doth it ſignify, if the Perſon appearing as Defendant in this Cauſe, be noted for Hereſy, or under Inquiſition, or in Priſon; becauſe as it may happen, that both the Deceaſed, and the Defendant under Inquiſition, may be both freed from the Proſecution carried on againſt them, 'tis allowed him, that no Prejudice may be done to any one, and becauſe it may be for his own Advantage, to appear in Defence of the deceaſed Criminal, according as the *Madrid* Inſtruction hath determined in the afore-cited Place. And farther, the *Avila* Inſtruction, *An.* 1498. *cap.* 4. determines, *That the Proceſs againſt a dead Perſon ſhall be ſpeedily finiſhed, and that the Inquiſitors ſhall not put off the Cauſe for want of Proof, unleſs poſſibly 'tis likely, that within a little while, other kind of Proofs may ariſe.* But when the Criminal is not convicted upon full Proof, he is immediately to be abſolved. And the afore-cited Inſtruction gives this Reaſon of the Decree; becauſe unleſs it were thus, the Sons and Daughters of the Deceaſed under Proſecution, if his Cauſe ſhould be put off, would not poſſibly find any Perſons to marry with, and could not diſpoſe of the Effects left by the Deceaſed. But if after the Deceaſed is abſolved there appear new Witneſſes againſt him, there may be a new Action commenced againſt him, becauſe, in this Crime, in Favour of the Faith, Sentences pronounced are not to be taken as an adjudged Caſe. And the former Evidences alſo ſhall retain their intire Force, and be added to thoſe which ariſe anew, in order to make full Proof.

When all theſe Things have been duly obſerved, if it appears that the Deceaſed is to be abſolved, the Sentence of Abſolution is publickly pronounced, becauſe as publick Edicts were ſet forth againſt him, at the Beginning of his Proceſs, he is therefore to be publickly declared abſolved, that he may be reſtored to his Reputation. But if his Memory is to be condemned, he is pronounced to have died in Hereſy, his Memory is condemned, his Effects confiſcated, his Bones dug up, and if they can be diſtinguiſhed from the other Bones of Catholicks, to be publickly burnt.

And thus we read that the Bones and dead Bodies of ſeveral Hereticks have been unburied and thrown away, or burnt. *Peter John*, of the Dioceſe of *Biron*, followed and taught the Errors of *Joachim*, Abbot of St. *Flour*, and publiſhed concerning this Affair ſeveral Books upon the Revelation of St. *John*, and the Goſpel of *Matthew*. Theſe Books were afterwards diligently examined

Bzovius, *A.* 1199. §. 39.

examined by many Doctors in Divinity by Authority of the Pope, and at a solemn Meeting at the Court of *Rome*, were condemned and burnt. *Peter* also himself, by Command of the same Prelate, was taken up out of holy Ground, and by the general Vote and Sentence declared an Heretick, tied to a Stake and burnt. There lived also, some Years ago, in *Italy*, in the *Bresciano*, a certain Person, of so great Integrity and Severity of Life, that some affirmed that, when alive, he was the Successor of *John Baptist* himself, and on this Account greatly reverenced him after his Death. The Inquisitor of the Faith having been informed by the Evidence of the Faithful, that he was tinctured with Heresy, and that he died out of the Communion of Believers, with the Advice of the Bishop, commanded his dead Body to be unburied, and thrown into the Fire. At *Faenza* in *Lombardy*, an Abbot buried a certain Heretick in the Church of St. *Hippolytus* the Martyr. *Innocent* commanded the Abbot and Monks to take up the Corps, and to observe the Interdict his Church was laid under on that Account. Master *Almericus* was also turned out of his Grave, and buried in a Field.

Idem. An. 1233. §. 11.

An. 1207. § 8.

An. 1209. §. 11.

But that we may not look for more Examples than we need, we have a famous one of this sort of Condemnation, in the Synod of *Constance*, against *John Wickleff*, in the eighth Session. *Inasmuch as by the Authority of the Sentence, and Decree of the* Roman *Council, and by the Command of the Apostolick See, after the proper Delays, Process was carried on concerning the Condemnation of* John Wickleff *and his Memory, Edicts being set forth, and Denunciations to summon all, if any there be, who are willing to defend him or his Memory; having farthermore examined Witnesses concerning the final Impenitence and Obstinacy of the said* Wickleff, *by Commissaries deputed for this Purpose, and observed all Things to be observed, as the Order of Law requires in this Case, and his Impenitence and final Obstinacy being evidently proved by legal Witnesses, the Matter was legally believed and assented to. And therefore at the Instance of the Procurator of the Exchequer, and after putting forth an Edict for hearing of Sentence as on this Day, this holy Synod declares and determines, that the said* John Wickleff *was a notorious Heretick, and died obstinately in his Heresy, by anathematising him, and likewise condemning his Memory, and decrees that his Body and Bones, if they can be separated from the other Bodies of the Faithful, shall be taken up, and thrown out from the Burial of the Church, according to the canonical and legal Sanctions. And the Judges being interrogated whether they were content, answered, Content. And they approved all the aforesaid Matters.*

There was a like Edict in *England* against the dead Bodies of *Bucer* and *Fagius*. For when Cardinal *Pool*, the Pope's Legate in *England*, went, after Queen *Mary*'s Inauguration, to the University of *Cambridge*, to restore all Affairs there, they began the Process of taking up the dead Bodies of *Bucer* and *Fagius*. The dead Persons were cited by a first and second Edict, and several Witnesses produced against them once and again. When no one appeared who would undertake their Defence, they were at last condemned for Contumacy, and on the said Day Sentence was pronounced before all the Orders of the University, and their dead Bodies were ordered to be dug up, and delivered

Bzovius, *An.* 1556. §. 36. E. Thuan.

Hist. Con. Trid. l. 5. p. 451.

delivered to the Queen's Officers. After ſome few Days, whilſt the Sentence was ſent to *London*, an Order came from the Queen that the Puniſhment ſhould be inflicted. Finally, on the ſixth of *February* the Bodies were dug up, and a large Stake fixed into the Ground in a certain Part of the Market-place prepared for that Purpoſe, to which the Bodies were tied, and a large Pile of Wood placed round them to burn them. After this the Cheſts were ſet up on end with the dead Bodies in them *, and faſtned on both Sides with Stakes, and bound to the Poſt with a long Iron Chain. After the Pile was ſet on Fire, they threw a great Number of the Books of the Proteſtants into it, which they had gathered together, which were ſoon conſumed by the ſpreading Flames. Not long after this, *Brookes*, Biſhop of *Glocester*, dealt in the ſame Manner at *Oxford*, with *Catharine*, the Wife of *Peter Martyr*, who dying about † four Years ago, was buried in *Chriſt-Church* near St. *Frideſwide*'s Relicts, who was held in great Veneration in that College. For being ‖ convicted that ſhe had embraced her Huſband's Hereſy, ſhe was condemned, her dead Body taken up, carried upon Shoulders, and thrown upon a Dunghill.

Beſides this, the Statue of ſuch deceaſed Perſon is now brought forth in publick, on which the Name of the Perſon, whoſe Memory is to be condemned, is written in large Characters, and before which all the erroneous or heretical Articles, and all the heretical Deeds or Works, which have been legally proved againſt the Deceaſed, are recited in the ſame Manner in which they were done, as tho' the Deceaſed himſelf was living and preſent. This Statue is delivered to the ſecular Court, which the ſecular Judge afterwards burns, as he would have burnt the Deceaſed, if he had been living, and died obſtinate.

We have a very famous Inſtance of ſuch a Sentence pronounced againſt a dead Perſon, in this Age, by the Inquiſition at *Rome*, in *Mark Anthony de Dominis*, as *Bzovius* relates it under the Year 1479. §. 12. and following. He left the Church of *Rome* and the Arch-Biſhoprick of *Spalato*, and came into *England* in the Year 1616. and publiſhed Books containing the Reaſons of his Departure, and alſo concerning the Eccleſiaſtical Republick. Thoſe Books were condemned as heretical at *Rome*, and himſelf cited to appear and purge

* They were buried, as *Fox* tells us, in Cheſts.

† *Fox* ſays, two Years.

‖ *Fox* aſſures us, that *Brookes*, Biſhop of *Glocester*, *Nicholas Ormanet*, *R. Morwen*, Preſident of *Chriſt-Church* College, *Cole* and *Wright*, coming to *Oxford* as the Cardinals Viſitors, ſummoned before them all that had any Acquaintance with her or her Husband, and miniſtred an Oath to them, that they ſhould not conceal any Thing that was demanded of them; and that being examined, their Anſwer was, that they knew not what Religion ſhe was of, becauſe they did not underſtand her Language. But that notwithſtanding this, the Cardinal by his Letters ordered the Dean of *Frideſwide* to dig her up, which the Dean accordingly did that Evening, and buried her in a Dunghill. After this, in Queen *Elizabeth*'s Reign, ſhe was, by Order of *Parker*, Arch-Biſhop of *Canterbury*, *Grindal*, Biſhop of *London*, and others, the Queen's high Commiſſioners, taken up out of the Dunghill, and buried in her former Place, and her Bones mixed with thoſe of *Frideſwide*, that they might never afterwards know one from the other.

himself within six Months before the Congregation of the Universal Inquisition. As he did not appear, after having observed the usual Methods in that Office, he was pronounced an Heretick, excommunicated, deprived of all Dignities, Benefices and Offices whatsoever, and to have incurred all the other Penalties which are prescribed by the sacred Canons.

Some Years after he privately abjured his Heresies, and having published a Writing declaring his Intention to depart out of *England*, he was received into Favour by Pope *Gregory* XV. and had granted him an House, Provision, Money, and other Things necessary for himself and Family, yearly, according to his Archiepiscopal Character, and besides this, a noble Ecclesiastical Pension. This Bounty of the Pope many Persons beheld with envious Eyes. More than this, he was restored to his Honours, so that he was afterwards stated in the Habit and Ensigns of his Dignity, in the Sessions, and all other Things, as tho' he had never fallen from his Rank. These Honours, as *Bzovius* says, puffed him up with Pride, which he discovered in his Gate, Countenance, and Conversation, as tho' he had been called, not to receive Mercy, but to Triumph.

Not long after this he was informed against by certain Religious and others, before the Assembly of the Universal Inquisition, that he was not afraid privately to spread the Errors he had abjured, and that he commended a certain Agreement cried up by himself between the Catholicks and Hereticks, and threw out Words contrary to the Authority of the Councils, and especially that of *Trent*, and that tho' oftentimes admonished, he would not abstain from such Discourses. Upon this they examined Witnesses concerning the Matters denounced according to the Sanctions of the Law; and as he was particularly said to endeavour an Escape, and to gather up his Effects in order to return to his own Country, he was apprehended and put in Prison, not such as Hereticks are usually confined to, but in the Castle of *Adrian*, where the first Quality are usually imprisoned, some of his Domesticks being allowed to attend him.

Being thus taken into Custody, and his Writings, according to Custom, diligently examined, one was found amongst them concerning the Sacrament of Matrimony, in which there were several heretical Propositions. Upon this Friar *Desiderius Scalea*, a Predicant, Cardinal of *Cremona*, one of the general Inquisitors, whom the Pope had delegated to carry on the Inquisition, and to take Cognisance of the whole Cause, admitted other proper Witnesses, and such as were beyond all Exception; after which *Mark Anthony* himself being brought before him, confessed most of those Things which he had plainly abjured. He added, that he believed that the Church of *Rome* and the Protestants agreed in all fundamental Articles, and that as to other Things wherein they differed, they were not equally necessary; but that it might be allowed to the Protestants to abound in their own Sense, at least till these Things were more fully examined, because it might be doubted whether they were sufficiently discussed and determined by the Council of *Trent*; and that therefore such Articles might be subjected to a new Disputation between

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tween Catholicks and Proteſtants, choſen on each Side for this Purpoſe. For he believed that the Council, and eſpecially that of *Trent*, had declared many Things as Matters of Faith, which did not at all belong to it; particularly as to Juſtification and Grace, as an inherent Quality, and the Efficacy of the Sacraments, *ex opere operato*, and many others. That the Articles which he called Fundamental, were ſuch only as were neceſſary to Salvation, and not ſuch as were controverted between both Parties; and that therefore he who denied them was not a Member cut off from the Church, but a living one, and joined to it in Faith and Charity. From whence he concluded, that notwithſtanding this Difference, there might be a Union and Agreement between the Church of *Rome* and the Proteſtants. All theſe Things he guarded by this Rule, that the holy Scripture, as far as clear and expreſs, was an adequate Rule of Faith, and in Defect of this, ſuch Tradition as was certain, and that therefore no Chriſtian Man ought to believe, with a divine Faith, any Thing not expreſſed in holy Scripture without any Obſcurity, and Difference of Catholick Explications; or not delivered by the Apoſtles or Apoſtolick Men to the Church, without any Ambiguity whatſoever; and that beyond this Rule every Man was free to follow his own Opinion.

When he had anſwered that he had ſaid and believed theſe Things, the Congregation of the Cardinals General Inquiſitors thought proper to conſult the Cenſors of Theological Propoſitions, who, examining the Affair before the Cardinal of *Cremona*, unanimouſly pronounced the Propoſitions heretical. And as there was farther a vehement Suſpicion that his Abjuration was feigned, he was interrogated, whether he would perſiſt in the ſaid Hereſies? He ſaid, No; but that he repented of them, and was ready to deteſt and abjure them, as far as they ſhould be declared Hereſies by the Apoſtolick See. Whilſt his Cauſe was in this State, and during the Time allowed him to make his Defence, and for granting him his Proceſs, as he was conſulting his Advocate, he fell into a very grievous Diſtemper, which ſo encreaſed on him, that the Phyſicians deſpaired of his Life, and the rather, on account of the Seaſon of the Year, and the Greatneſs of his Age, being ſixty-ſix Years old. He abjured however before the Cardinal of *Cremona*, and other Officials of the Inquiſition, the Hereſies he had confeſſed, and all others; and having given Signs of Repentance, and received the Sacraments, and ſent a Meſſenger to the Pope, to give him Thanks, in theſe Words, *That by the Preſſure of his Confinement, he had given him Opportunity ſeriouſly to think of the Salvation of his Soul, and to behold the Light, which he was too blind to diſcern before, and that therefore he was indebted to him, that by the Mercy of God he died with a good Hope*, after theſe Things he departed this Life. His Bowels, in order to prevent any Reflections, were taken out by the moſt excellent Phyſicians of ſeveral Nations, who having carefully inſpected his Inwards, all agreed that he died with a natural Illneſs.

His Corpſe was depoſited till the Iſſue of the Trial, and four of his Relations, who then happened to be at *Rome*, were by Name cited by a publick Edict, and all other Perſons whatſoever who thought themſelves any ways con-

concerned, to defend the Memory of the aforesaid *Mark Anthony*. And when his four aforesaid Relations declared they would not defend it, and no other appeared to do it, the Tribunal of the Inquisition chose some proper Persons for this Purpose, who, upon carefully inspecting the Process, answered, that nothing appeared to them, whereby they could defend the said Memory according to Law, since from *Mark Anthony*'s own Confession, they most clearly found that he died a relapsed Heretick. But that they might proceed to Sentence entirely, according to Law, they consulted with Divines and skilful Lawyers, and had the Matter proposed and carefully examined by them. At length they all agreed that the same Punishments should be executed upon the Memory, Body, and Effects of the Deceased, which would have been executed upon himself had he been alive.

Having taken this Resolution, the twenty-first Day of *December*, *An.* 1624. was appointed for the pronouncing Sentence. Early in the Morning of it, so vast a Multitude had got together to St. *Mary supra Minervam*, where they generally give these religious Shews, that they were forced not only to shut up, but to guard the Gates with armed Men, and the great *Area* before the Church was so prodigiously thronged, that there was scarce Room for the Cardinals themselves to pass. The middle Isle of the Church, from the first to the fourth Pillar was boarded in, with Boards above the Height of a tall Man. At the upper and lower End of it there were Gates, guarded by *Switzers*. On each Side there were Scaffolds, running the whole Length of the Inclosure, in which were Seats for the Cardinals and other Prelates, and other Conveniencies, to receive the Courtiers and other Noblemen standing or sitting. On the right Hand coming in the sacred Council presided, on the left Hand were placed the inferior Officers of the holy Inquisition, the Governor of the City and his Officials. Before the Pulpit was to be seen the Picture of *Mark Anthony*, drawn in Colours, covered with a black common Garment, holding a Clergyman's Cap in his Hand, with his Name, Surname, and Archiepiscopal Dignity, which formerly he had born, inscribed upon it, together with a wooden Chest bedaubed with Pitch, in which the dead Body was inclosed. The rest of the Church was filled with Citizens, and a great many Foreigners, the Number of whom was at that Time larger, because the Jubilee that was at hand had brought them from all Parts to the City, that they might be present at the opening the sacred Gates.

Things being thus disposed, a certain Parson mounted the Pulpit, and with a shrill Voice, which rung thro' all the Parts of the spacious Church, and in the vulgar Language, that the common People might understand him, read over a Summary of the Process, and the Sentence by which the Cardinals Inquisitors General, specially deputed for the Affair by the Pope, pronounced *Mark Anthony*, as a Relapse into Heresy, to have incurred all the Censures and Penalties appointed to relapsed Hereticks by the sacred Canons, and Papal Constitutions, and declared him to be deprived of all Honours, Prerogatives, and Ecclesiastical Dignities, condemned his Memory, and cast him out of the Ecclesirstical Court, delivered over his dead Body and Effigies into the

the Power of the Governor of the City, that he might inflict on it the Punishment due, according to the Rule and Practice of the Church. And finally, they commanded his impious and heretical Writings to be publickly burnt, and declared all his Effects to be forfeited to the Exchequer of the holy Inquisition. After this Sentence was read, the Governor of the City and his Officers threw the Corps, Effigies, and aforesaid Writings into a Cart, and carried them into the *Campo Fiore*, a great Multitude of People following after. When they came there, the dead Body, which as yet in all its Members was whole and entire, was raised out of the Chest as far as the Bottom of the Breast, and shewn from on high to the vast Concourse of People that stood round about, and was afterwards with the Effigies and Bundle of his Books, thrown into the Pile prepared for the Purpose, and there burnt.

I was willing to give this long Story in all its Circumstances, not only because the Person himself was famous, and the Thing fresh in Memory, but chiefly because all Things usually practised in the Process against the Dead, were here exactly observed, whereby the whole Scene of this Iniquity and Cruelty doth most fully appear.

CHAP. XXXIX.

Of the Manner of proceeding against Houses.

IN order to beget in the common People a greater Abhorrence of the Crime of Heresy, they are used to pull down, and level with the Ground the Houses or Dwellings, in which the Heretick or Arch-Heretick holds Conventicles and Congregations. Of this we have several Instances in the Book of the Sentences of the *Tholouse* Inquisition. This Demolition of Houses, in Detestation of the Crime of Heresy, was formerly appointed by the Council of *Tholouse*, An. 1229. c. 5. *We decree that that House, in which an Heretick shall be found, shall be destroyed, and the Place it self or Ground be confiscated.* And the Council of *Biterre*, c. 35. *Let the Houses also in which living or dead Hereticks, whether convicted or condemned, are or shall be found, if with the Knowledge and Consent of the Owners of such Houses being of legal Age, be pulled down, and the Effects of all who then inhabit there be confiscated, unless they are able manifestly to prove their Innocence or just Ignorance.* And not long after, *Innocent* IV. decreed this very Thing by a certain Writing, beginning, *Ad exstirpanda*, of which the Original is extant, in the Inquisition of *Bologna*, in these Words. *The House also, in which any Heretick, Man or Woman, shall be found, shall be destroyed to the Ground, without any Hope of being ever rebuilt, unless the Owner of the House shall have procured the Discovery of them there. And if the Owner of such House shall have any other House contiguous to it, let all those Houses be likewise demolished.* But *Alexander* IV. by a Constitution beginning, *Fœlicis recordationis*, declares, *That this*

this must be understood of the Out-houses of such Dwelling, viz. *that such House, with all other Buildings contiguous to it*, i. e. *the House it self, and Out-houses, whether an Heretick, Man or Woman, shall be found in the House it self, or the Out-houses, shall be destroyed; because the House, tho' divided into ever so many Dwellings, is nevertheless accounted to be one House.*

If the Owner of the House is not condemned of Heresy, but Hereticks have committed such Things in an House that did not belong to them, without the Knowledge of the Owner, the House is to receive no Damage. But if he knew it, or ought to have known it, 'tis confiscated, and being confiscated, remains subject to the Pleasure of the Inquisitor. The Materials of such Houses go to the Exchequer, or are decreed to be applied to other pious Uses. The Ground on which such House stood must not be shut in, but must always be uninhabited, that as it was formerly a Receptacle of wicked Wretches, it may from henceforth become a Place of Nastiness, and made a Dunghill and Stench. Excommunication also is threatned against all those who shall presume to rebuild it, or to inhabit or inclose it, or shall knowingly give any Advice or Assistance to it. Sometimes also the Ground on which the House stood, is sprinkled over with Salt, to denote its Barrenness, at which Time certain Curses and Imprecations are uttered. And finally, that there may be a perpetual Monument of its Infamy and just Punishment, a solid Stone, or a marble Pillar four or five Foot high, is erected in this last Age, in the said Ground, with certain large Characters cut on it, containing the Name of the Owner of the House, shewing the Reason of its being destroyed, and signifying the Time, *viz.* under the Reign of what Pope, Emperor or King, the Matter was transacted. In the former Age there was a famous Monument erected on this Account in *Spain*, in the noble City of *Valladolid*, where *Austin Cazzalla*, altho' converted, and penitent, was, *An.* 1559. delivered as a Dogmatist to the secular Court, and his House pulled down, on the Ground of which there was a little Pillar erected, containing an Account of the Affair.

Lib. Sent. fol. 2.

CHAP. XL.

How the Sentences are pronounced, and the condemned Persons delivered over to the secular Arm.

Direct. p. 3. com. 48.

THE Inquisitors are commanded to pronounce the Sentences against Hereticks, and to leave the condemned Persons to the secular Powers present, to be punished according to their Desert. C. *Excommunicamus*, 1. in princip. de hæret. C. *Ad Abolendam*, §. *Illos*, de hæret. and C. *Novimus*, de verb. signific. Altho' this Command requires the secular Judge to be present at the pronouncing Sentence, yet the Sentence of Condemnation against Hereticks,

reticks, pronounced when the secular Judge is absent, is valid, provided there be all other Things essential to it. For the Laws do not so require the Presence of the secular Judge or his Officers, as tho' nothing profitable could be transacted without him, but only that they, as Servants, should put in Execution the Sentence pronounced; for every other Act is forbidden them in this Crime, which is merely Ecclesiastical. Cap. *ut Inquisitionis*, §. *Probibemus*, de hæret. l. 6. And if the Presence of the secular Judge was necessary in pronouncing Sentence of Condemnation against impenitent or relapsed Hereticks, he might easily by this Means hinder the Office of the Inquisition, by denying his Presence, either for no Reason, or for a feigned and pretended one. So that when the Inquisitor and Bishop have pronounced Sentence upon the Criminal, it shall be valid, tho' the secular Magistrate cannot or will not be present; and it shall be sufficient to intimate to him by some legal Person in Writing when there is Need, and which is the safest Method, that such a Person is judged to be an obstinate Heretick, and impenitent or relapsed; and the secular Magistrate, tho' not present at the Sentence, shall be obliged to give Credit to such an Intimation, and to put to Death the Heretick delivered over to him, unless he will be most grievously punished as a Favourer of Hereticks, and Hinderer of the holy Office. Nor must he have any Copy of the Process.

Also in the same Chapter *Novimus*, 'tis commanded, that the Church shall effectually intercede for him, who is to be delivered over to be punished by the secular Court, that the Sentence concerning him may be so moderated, as to prevent Danger of Death *. And altho' the Emperor *Frederick* provided by his Law, *Let no one presume to intercede with us in Behalf of such, which if any doth, he shall deservedly incur our Indignation*; yet the Ecclesiastical Judges may intercede in another Court for such a one; and altho' such Intercession is forbidden, which tends to favour the Heretick, or to the Hindrance of Justice; yet such Intercession is not, which tends to the avoiding Irregularity, and which is particularly injoined by the Law it self. However, every Difficulty

Pegna, *com.* 20. *in part.* 2. *Direct.*

* " Is there, says Dr. *Geddes*, in his View of the Court of Inquisition in *Portugal*, *p.* 446. in " all History, an Instance of so gross and confident a Mockery of God, and the World, as this of " the Inquisitors beseeching the civil Magistrates, not to put the Hereticks they have condemned " and delivered to them, to Death? For were they in Earnest when they made this solemn Pe- " tition to the secular Magistrates, why do they bring their Prisoners out of the Inquisition, and " deliver them to those Magistrates, in Coats painted over with Flames? Why do they teach " that Hereticks, above all other Malefactors, ought to be punished with Death? And why do " they never resent the secular Magistrates having so little Regard to their earnest and joint Pe- " tition, as never to fail to burn all the Hereticks that are delivered to them by the Inquisition, " within an Hour or two after they have them in their Hands? And why in *Rome*, where the " Supream, Civil, and Ecclesiastical Authority are lodged in the same Person, is this Petition of " the Inquisition, which is made there as well as in other Places, never granted? Thus far Dr. *Geddes*. And let me here add, that this Hypocrisy and Dissimulation is the more vile and execrable, in that the Inquisitors are commanded by the Bulls of several Popes, to compel the secular Magistrate, under Penalty of Excommunication and other Ecclesiastical Censures, within six Days readily to execute the Sentences pronounced by the Inquisitors against Hereticks, *i. e.* to burn them. *The tender Mercies of these Wretches are Cruelty.*

of this kind the cunning Induſtry of the Popes hath wholly taken away, who have provided, how both the Inquiſitors and Counſellors may more ſecurely avoid Irregularity. For *Paul* IV. conſidering, at *Rome*, *April* 29, *An.* 1557. in the Congregations held before him on the Cauſe of Hereſy, that the greateſt Part of thoſe imployed in this Affair, were Clergymen ſecular and regular, being in Orders, in the Prieſthood, and the Epiſcopal, Archiepiſcopal, or other higher Dignity, and even ſome Cardinals, and that it oftentimes happened, that, according to the Nature of the Caſes and Crimes before them, they gave Sentence againſt the Criminals, whereby was occaſioned the Loſs of a Limb, or the Effuſion of Blood, and ſometimes even natural Death; and being therefore willing to conſult their Safety, and the Eaſe of their Mind and Conſcience, determined and decreed, that all the aforeſaid who ſhould aſſiſt him in judging not only in Cauſes of Hereſy, but alſo in every other criminal Cauſe, which ſhould or might be managed before him, might give Sentence againſt Criminals, by which they ſhould be condemned to the Queſtions or Torture, or to any other condign Puniſhment, even to the Loſs of a Member, and to natural Death incluſively, without incurring any Cenſure or Irregularity. *Pius* V. afterwards confirmed the ſame Decree, and extended it to all the Inquiſitors, their Vicars, Commiſſaries, and Counſellors, as *Umbertus Locatus* witneſſes in his Book *de opere Judiciali Inquiſitorum*, towards the End, tit. *de decretis*. So that as theſe Decrees now ſtand in Force, this Proteſtation doth not ſeem neceſſary, that the Inquiſitors hereby may avoid Irregularity, when Criminals for Hereſy are actually delivered over, or left to the ſecular Court. However, they will not ſuffer it to be omitted, becauſe 'tis ſupported by common Law, and the general Cuſtom of the Eccleſiaſtical Court; nor are ſeveral Remedies, which may be had more ſecurely to obtain the ſame End, to be rejected.

Qu. 36. *com.* 85. Nor can the ſecular Judges, after Criminals for Hereſy, relapſed or impenitent, are delivered over, or left to them to be put to Death, re-examine the Proceſs and Cauſe, and correct or alter it if needful, or pronounce the Sentence void.

Cathol. Inſtit. t. 36. §. 8. However, *Simancas* relates from other Authors certain Inſtances of Perſons, who were unjuſtly condemned by the Inquiſitors for Hereſy, and whoſe Sentences were not executed by the ſecular Judges. He cites *Alciatus*, as aſſerting, "That the Lay Judge is not bound immediately to condemn a Criminal left to him by the Inquiſitors, if he was not really defiled with the Crime of Hereſy, altho' the Eccleſiaſtical Judge might have pronounced it ſo; and thus he adds, it was ſaid, that the Lay Judge was not bound to execute the Sentence of the Inquiſitor, by which he pronounced a certain Woman an Heretick, who in Reality had only made ſome Love-Potions, and againſt whom there were beſides Proofs of certain Witchcraft. *John Igneus* alſo relates, that the ſame twice happened at *Milan*, where two Women, condemned for Hereſy by the Biſhop of *Parma* and the Inquiſitor, eſcaped unpuniſhed, it being found that they ever thought right concerning the Faith. He alſo adds, that a certain Woman at *Rouen* being condemned to

"the Flames for Heresy, was absolved by the secular Judges, and those who "had condemned her, condemned to pay Costs." But *Simancas* believes these Things and others of the same kind, were either feigned out of Hatred to the holy Inquisition, or else rashly and unjustly done by wicked and unskilful Judges, and thinks that the secular Judge is bound in a Cause of Heresy immediately, and, as they say, with his Eyes shut, to execute the Sentence of the Ecclesiastical Judge, without any Cognisance or Assurance of the Justice of it. And this is now most exactly observed in *Spain* and *Portugal*. In the Accounts of the *Spanish* Court, lately published by a noble *French* Lady, who attended the Queen out of *France*, there is an Instance of a *Jewish* Girl, scarce entred into her seventeenth Year, extreamly beautiful, who, in a publick Act of Faith at *Madrid*, *An.* 1680. *June* 30. together with twenty others of her Nation, of both Sexes, being condemned to the Stake, turned her self to the Queen, and prayed, that out of her Goodness and Clemency she might be delivered from the most dreadful Punishment of the Fire, in these Words: *Great Queen, is not your Presence able to bring me some Comfort under my Misery? Consider my Youth, and that I am condemned for a Religion which I have sucked in with my Mother's Milk.* The Queen turned away her Eyes, and declared she pitied the miserable Creature, but did not dare to intercede for her with a single Word.

§. 4, 5.

par. 2. pag. 54.

Nor must the Inquisitor shew to the Lay Judge the Process made by him; but the secular Magistrate must immediately, and without Delay, put in Execution the Sentence of the Ecclesiastical Judge. If he omits to do it, or defers the Execution beyond the usual Time, without a legal Cause, the Inquisitor may compel him to execute it by Ecclesiastical Censure. *Alexander* IV. hath, in the fullest Manner, given this Power to the Inquisitors by a Rescript, beginning, *Ad audientiam.*

But in this Affair the Custom of Provinces is different. In *Spain*, as soon as ever the Sentence of the Relapsed or Impenitent, or any others who are to be delivered over to the secular Court, is read, the secular Judges receive them immediately into their Court, and having pronounced the Sentence of Death or Burning, carry them directly to the Place of Execution. In many Cities of *Italy* the secular Judges keep in their Jayls the Criminals left or delivered over to them by the Inquisitors three or four Days before they put them to Death; which seems to be done by Authority of *Innocent* IV. in a Bull beginning, *Ad exstirpanda*, where we thus read. *As to those who are condemned for Heresy, by the Diocesan or his Vicar, or by the aforesaid Inquisitors, let the chief Magistrate or Ruler, or his special Messenger, receive them when they are left to him, and immediately, or within five Days at least, put in Execution the Constitutions made against such Persons.* And they may be compelled to this by the Punishment of Excommunication, and other Ecclesiastical Censures, by a Rescript of *Innocent* VIII. beginning, *Dilectus Filius*, in these Words. *Injoin and command the said secular Officials, under the Penalty of Excommunication, and other Ecclesiastical Censures, that within six Days, after they shall be legally required, they readily execute the Sentences pronounced by you against such Hereticks, without*

ſeeing the ſaid Proceſſes carried on by you, and without allowing any Appeal. If the Inquiſitor finds the ſecular Judge to be ſo negligent, as not to take Care to put to Death the Hereticks delivered to him after theſe five or ſix Days are elapſed, tho' there be nothing legally to hinder him, then the Inquiſitor may command him to execute the Puniſhment of Burning, or of Death, upon the Hereticks left to him, ſince this is the Puniſhment uſually inflicted on ſuch; nor will the Inquiſitor hereby fall into Irregularity. But others think it a ſafer Method, that the Inquiſitor ſhould not in this Caſe mention by Name the Puniſhment of Burning, or Death, commanding the ſecular Judge to inflict it, becauſe poſſibly he might become irregular; to avoid which, he makes the uſual Proteſtation, when he conſigns over Hereticks to the ſecular Judge; and therefore they think it ſafer, that he ſhould in general command him, under Penalty of Excommunication, or other Cenſures, to put in Execution the Sentences pronounced by him. This manner of ſpeaking is contained in a Reſcript of *Alexander* IV. beginning, *Ad Audientiam*; and of *Leo* X. beginning, *Honeſtis petentium votis*: Or that he ſhould obſerve the Conſtitutions and Laws publiſhed againſt Hereticks, which Manner is not obſcurely injoined by *Innocent* IV. in Extrav. *Ad exſtirpanda*, §. *Damnati vero*. And theſe Methods they ſay are ſufficient to avoid Irregularity.

How they proceed in the Dutchy of *Milan* in the Execution of the Sentence againſt Hereticks, *Carena* teaches us in theſe Words. "And that we may ſee how our Senate at *Milan* proceeds in executing the Sentences pronounced by the Inquiſitors againſt Hereticks, and how great the Zeal of the ſaid Tribunal is in Things concerning the Catholick Religion, I here ſubjoin the following Reſcript of the ſaid Senate in this Affair. *Our Beloved: We have ſeen what you have written to us concerning* Don Baptiſta Gaudentius, *alias Friar* Seraphin *of* Ferrara, *who, as you have written to us, is guilty of heretical Pravity. Wherefore when he is delivered to you, immediately put his Condemnation in Execution.* Milan, Aug. 6. 1573. Directed to *The Wiſe* J. C. *Judge of the Malefactors at* Cremona. And in Execution of this Decree the ſaid Criminal was, on the 12th Day of the ſaid Month, burnt alive in the publick Place of Juſtice, as a relapſed and impenitent Heretick."

p. 2. *t.* 2. §. 6. *n.*44.

CHAP. XLI.

Of an ACT *of* FAITH.

THE laſt Act of the Inquiſition now remains, in which may be ſeen the Accompliſhment of all the ſeveral Matters we have been explaining, and relating. 'Tis commonly called an Act of Faith. And 'tis worth while more particularly to deſcribe this Solemnity, becauſe 'tis celebrated with the greateſt Pomp.

When

When the Inquisitor is determined to pronounce the Sentences of certain Criminals, he fixes on some Lord's-day or Festival to perform this Solemnity. But they take Care that it be not *Advent Sunday*, or in *Lent*, or a very solemn Day, such as the *Nativity of our Lord*, *Easter*, and the like; because 'tis not decent that the Sermons on those Days should be suspended, but that every one should go to his own Parish Church. A certain *Sunday* or Festival therefore being appointed, the Parsons of all the Churches of that City or Place, in which this Solemnity is to be performed, do, by Command of the Bishop and Inquisitor, when they have done preaching, publickly intimate to the Clergy and People, that the Inquisitor will, in such a Church, hold a general Sermon concerning the Faith; and they promise, in the Name of the Pope, the usual Indulgence of 40 Days, to all who will come and see and hear the Things which are there to be transacted. They take Care to give the same Notice in the Houses of those Religious, who commonly preach the Word of God, and that their Superiors should be told, that because the Inquisitor will in such a Church make a general Sermon concerning the Faith, therefore he suspends all other Sermons, that every Superior may send four or two Friars, as he thinks fit, to be present at the Sermon, and the pronouncing the Sentences. This Solemnity was formerly called, *A general Sermon concerning the Faith*, but 'tis now called, *An Act of Faith*. And in this, great Numbers of Persons, sometimes one or two hundred are brought forth in publick Procession to various Kinds of Penances and Punishments, all wearing the most horrible Habits. They chuse Festivals for this Solemnity, because then there is a greater Confluence of People gathered together to see the Torments and Punishments of the Criminals, that from hence they may learn to fear, and be kept from the Commission of Evil. Concerning this Rite, the *Madrid* Instruction, *An.* 1561. *c.* 77. thus prescribes. *When the Processes of the Criminals are concluded, and the Sentences fixed, the Inquisitors shall assign some Holyday, on which there shall be a publick Act of the Faith: Which Day they shall signify to the Chapters of the Church and Consistory of the City; and where there is any Royal Council, it shall be notified also to the President and Members, who must be all invited to attend the Act of Faith, according to the Custom of every Place. And let the Inquisitors take Care that these Things be done in such convenient Time, as that the Execution of the Sentences of those who are to be delivered over to the secular Court may be done by Day, to prevent Inconveniences.* And indeed, as this Act of Faith is now celebrated in *Spain* and *Portugal*, the Solemnity is truly an horrible and tremendous Spectacle, in which every Thing is designedly made use of that may strike Terror, for this Reason, as they say, that they may hereby give some Representation and Image of the future Judgment.

Param. *l.* 3. *qu.* 4. *n.* 36.

If any one, whether an impenitent or relapsed Heretick, is to be delivered to the secular Court, the Bishop and Inquisitor give Notice to the Ballive of the Place, or principal Magistrate of the secular Court, that he must come such a Day and Hour with his Attendance to such a Street or Place, to receive

ceive a certain Heretick or relapsed Person out of their Court, whom they will deliver to him; and that he must give publick Notice the same Day, or the Day before in the Morning, by the Crier, throughout the City, in all the usual Places and Streets, that on such a Day and Hour, and in such a Place, the Inquisitor will make a Sermon for the Faith, and that the Bishop and Inquisitor will condemn a certain Heretick or Relapse, by delivering him to the secular Court.

In most of the Tribunals of the Inquisition, especially in *Spain*, 'tis a remarkable Custom they use, *viz.* on the Day before the Acts of Faith, solemnly to carry a Bush to the Place of the Fire, with the Flames of which they are consumed, who deserve the Punishment of being burnt. This is not without its Mysteries; for the Burning and not consuming Bush, signifies the indefectible Splendor of the Church, which burns, and is not consumed; and besides this, it signifies Mercy towards the Penitent, and Severity towards the Froward and Obstinate. And farther, it represents how the Inquisitors defend the Vineyard of the Church, wounding with the Thorns of the Bush, and burning up with Flames all who endeavour to bring Heresies into the Harvest of the Lord's Field. And finally, it points out the Obstinacy and Frowardness of Hereticks, which must rather be broken and bent, like a rugged and stubborn Bush, and that as the Thorns and Prickles of the Bush tear the Garments of those who pass by, so also do the Hereticks rend the seamless Coat of Christ.

Param. *l* 2. *t.* 3. *c.* 10. *r.* 70, &c.

Besides, the Day before the Criminals are brought out of Jayl, to the publick Act of Faith, they part with their Hair and their Beard, by which the Inquisitors represent, that Hereticks return to that Condition in which they were born, *viz.* becoming the Children of Wrath.

Ibid. c. 11. *n.* 63.

All Things being thus prepared to celebrate this Act of Faith, all the Prisoners, on that very Day which is appointed for the Celebration of it, are cloathed with that Habit which they must wear in the publick Procession. But the Custom in this Matter is not altogether the same in all the Inquisitions. In that of *Goa*, the Jayl-Keepers, about Midnight, go into the Cells of the Prisoners, bring in a burning Lamp to each of them, and a black Garment striped with white Lines; and also a Pair of Breeches, which reach down to their Ankles, both which they order them to put on. The black Habit is given them in Token of Grief and Repentance. About two a Clock the Keepers return, and carry the Prisoners into a long Gallery, where they are all placed in a certain Order against the Wall, no one of them being permitted to speak a Word, or mutter, or move; so that they stand immovable, like Statues, nor is there the least Motion of any one of their Members to be seen, except of their Eyes. All these are such as have confessed their Fault, and have declared themselves willing to return by Penance to the Bosom of the Church of *Rome*. To every one of these is given a Habit to put over their black Garment. Penitent Hereticks, or such as are vehemently suspected, received the blessed Sackcloth, commonly called the *Sambenito*, which, as we have before related, is of a Saffron Colour, and on which there is put the

Hist. Inq. Goan. c. 26.

The Habit of a Relapse or Impenitent, to be burned, called ye Samarra.

The Habit of a Penitent after Sentence Pronounced, called Fuego revolto.

P. 295

The Habit of a Penitent, called **Sambenito**.

Crofs of St. *Andrew*, of a Red Colour on the Back and on the Breaft. Vile and abject Perfons are made to wear the infamous Mitre for more outragious Blafphemies, which carries in it a Reprefentation of Infamy, denoting that they are as it were Bankrupts of heavenly Riches. The fame Mitre alfo is put on Polygamifts, who are hereby fhewn to have join'd themfelves to two Churches; and finally, fuch as are convicted of Magick, but what is fignified hereby as to them, I have not been able to difcover. The others, whofe Offences are flighter, have no other Garment befides the black one. Every one hath given him an extinguifhed Taper, and a Rope put about their Neck, which Rope and extinguifhed Taper have their Signification, as we fhall afterwards fhew. The Women are placed in a feparate Gallery from the Men, and are there cloathed with the black Habit, and kept till they are brought forth in publick Proceffion. *Param. l. 2. t. 3. c. 11. n. 70, 71.*

As to thofe who are defigned for the Fire, *viz.* fuch as have confeffed their Herefy, and are impenitent, and Negatives, *viz.* fuch who are convicted by a fufficient Number of Witneffes, and yet deny their Crime, and finally fuch as are relapfed, they are all carried into a Room feparate from the others. Their Drefs is different from that of the others. They are however cloathed with the Sackcloth, or kind of Mantle, which fome call the *Sambenito*, others the *Samarra* or *Samaretta*. And tho' it be of the fame Make as the *Sambenito* is, yet it hath different Marks, is of a black Colour, hath Flames painted on it, and fometimes the condemned Heretick himfelf, painted to the Life, in the Midft of the Flames. Sometimes alfo they paint on it Devils thrufting the poor Heretick into Hell. Other Things may alfo be put on it, and all this is done, that Perfons may be deterred from Herefy by this horrible Spectacle. *l. 1. t. 2. c. 5. n. 8.*

As to thofe who, after Sentence pronounced, do at length confefs their Crime, and convert themfelves, before they go out of Jayl, and are not Relapfes, they are cloathed with the *Samarra*, on which the Fire is painted, fending the Flames downward, which the *Portuguefe* call *Fogo revolto*; as tho' you fhould fay, the Fire inverted. Befides this, they have Paper Mitres put on them made in the Shape of a Cone, on which alfo Devils and Flames are painted, which the *Spaniards* and *Portuguefe* call in their Language *Carocha*. All of them being thus cloathed, according to the Nature of their Crime, are allowed to fit down on the Ground, waiting for frefh Orders. Thofe of them who are to be burnt, are carried into a neighbouring Apartment, where they have Confeffors always with them, to prepare them for Death, and convert them to the Faith of the Church of *Rome*. *Hift. Goan. Inq. c. 26.*

This is now the Cuftom of cloathing all the Prifoners in *Spain*, before they are brought forth in folemn Proceffion to publick View. I cannot readily fay whether this was the Cuftom formerly. It feems rather to appear by *Eymerick*'s Directory of the Inquifitors, that the Criminals, in the very Act of Faith, were at length cloathed with the infamous Garment they were condemned to wear, after the Sermon concerning the Faith, and the pronouncing the Sentence. For in his third Part, where he treats of the Abjuration to be *n. 189.*

made

made by one found in Heresy, or who hath confessed it, he thus advises. *He* (the Inquisitor) *also shall give Orders for making the Garment after the Shape of a Monk's Mantle*; and afterwards he uses these Words in the Sentence, *Imprimis, you shall be afterwards cloathed with the livid Garment, made after the Manner of the Soldier's Banner, or the Monk's Mantle without the Hood.* And again, *After these Things, the Sentence shall be put in due Execution, and the aforesaid Garment be immediately put on.* From which Passages 'tis plain enough, that the Criminals did not come out of Jayl to the Sermon concerning the Faith, cloathed with this infamous Garment, but were dismissed from Church with this Habit, after the Sermon concerning the Faith was done, and the Sentence pronounced. But this by the way only.

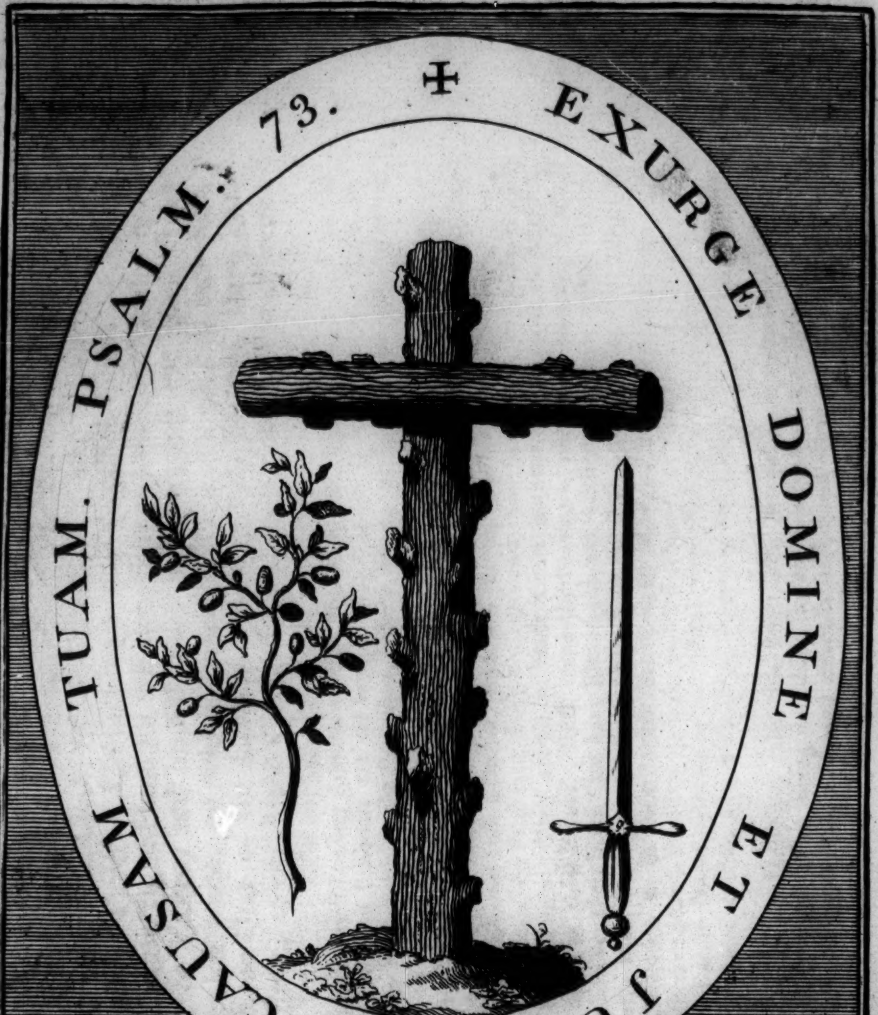
n 194.

n. 195.

Hist. Inq. Goan. c. 26.

About Four a Clock the Officers give Bread and Figs to all of them, that they may somewhat satisfy their Hunger during the Celebration of the Act of Faith. About Sun-rising, the great Bell of the Cathedral Church tolls, by which, as the usual Signal of an Act of Faith, all Persons are gathered together to this miserable Spectacle. The more reputable and principal Men of the City meet at the House of the Inquisition, and are as it were the Sureties of the Criminals, one of them walking by the Side of each Criminal in the Procession, which they think is no small Honour to them. Matters being thus prepared, the Inquisitor places himself near the Gate of the House of the Inquisition, attended by the Notary of the holy Office. Here he reads over in Order the Names of all the Criminals, beginning with those whose Offences are least, and ending with those whose Crimes are greatest. The Criminals march out each in their Order, with naked Feet, and wearing the Habit that was put on them in Jayl. As every one goes out, the Notary reads the Name of his Surety, who walks by his Side in the Procession. The *Dominican* Monks march first, who have this Honour granted them, because *Dominick*, the Founder of their Order, was also the Inventor of the Inquisition. The Banner of the holy Office is carried before them, in which the Image of *Dominick* is curiously wrought in Needle-work, holding a Sword in one Hand, and in the other a Branch of Olive, with these Words, *Justice and Mercy.* Then follow the Criminals with their Sureties. When all those whose Crimes are too slight to be punished with Death, are gone out into Procession, then comes the Crucifix, after which follow those who are led out to the Punishment of Death. The Crucifix being in the Midst of these, hath its Face turned to those who walk before, to denote the Mercy of the holy Office to those who are saved from the Death they had deserved, and the back Part of it to those who come after, to denote that they have no Grace or Mercy to expect. For all Things in this Office are mysterious. Finally, they carry out the Statues of those who have died in Heresy, habited in the *Samarra*, and also the Bones dug out of the Graves, shut up in black Chests, upon which Devils and Flames are painted all over, that they may be burnt to Ashes.

When



The Standard of the Inquisition in Spain.

The Standard of the Inquisition at Goa. p.

* When they have thus marched round the principal Streets of the City, that all may behold them, they at length enter the Church, where the Sermon concerning the Faith is to be preached. At *Goa* this is usually the Church of the *Dominicans*, and sometimes that of the *Franciscans*. The great Altar is covered over with Cloth, upon which are placed six silver Candlesticks, with burning Tapers. On each Side of it is erected something like a Throne; that on the right Hand for the Inquisitor and his Counsellors; that on the left for the Viceroy and his Officers. Over-against the great Altar there is another lesser one, on which several Missals are placed, and from thence even to the Gate of the Church is made a long Gallery, three Foot wide, full of Seats, in which the Criminals are placed, with their Sureties,

* Dr. *Geddes* gives us the following Account of this Procession in *Portugal*, *p.* 442. "In the "Morning of the Day the Prisoners are all brought into a great Hall, where they have the "Habits put on they are to wear in the Procession, which begins to come out of the Inquisition "about 9 a Clock in the Morning.

"The first in the Procession are the *Dominicans*, who carry the Standard of the Inquisition, "which on the one Side hath their Founder, *Dominick*'s Picture, and on the other Side the "Cross, betwixt an Olive-tree and a Sword, with this Motto, *Justitia & Miserecordia*. Next "after the *Dominicans* come the Penitents, some with *Benitoes*, and some without, according to "the Nature of their Crimes. They are all in black Coats without Sleeves, and bare-footed, "with a Wax-Candle in their Hands. Next come the Penitents, who have narrowly escaped "being burnt, who over their black Coat have Flames painted, with their Points turned down-"wards, to signify their having been saved, but so as by Fire. Next come the Negative "and Relapsed, that are to be burnt, with Flames upon their Habit, pointing upward; and "next come those who profess Doctrines contrary to the Faith of the *Roman* Church, and who, "besides Flames on their Habit pointing upward, have their Picture, which is drawn two or "three Days before upon their Breasts, with Dogs, Serpents, and Devils, all with open Mouths "painted about it.

"*Pegna*, a famous *Spanish* Inquisitor, calls this Procession, *Horrendum ac tremendum Spectacu-"lum*, and so it is in Truth, there being something in the Looks of all the Prisoners, besides "those that are to be burnt, that is ghastly and disconsolate, beyond what can be imagined; and "in the Eyes and Countenances of those that are to be burnt, there is something that looks "fierce and eager.

"The Prisoners that are to be burnt alive, besides a Familiar, which all the rest have, have a "Jesuit on each Hand of them, who are continually preaching to them to abjure their Heresies; "but if they offer to speak any Thing, in Defence of the Doctrines they are going to suffer "Death for professing, they are immediately gagged, and not suffered to speak a Word "more.

"This I saw done to a Prisoner, presently after he came out of the Gates of the Inquisition, "upon his having looked up to the Sun, which he had not seen before in several Years, and "cried out in a Rapture, *How is it possible for People that behold that glorious Body, to worship any "Being but him that created it?* After the Prisoners comes a Troop of Familiars on Horseback, "and after them the Inquisitors and other Officers of the Court upon Mules; and last of all comes "the Inquisitor General upon a white Horse, led by two Men, with a black Hat, and a green "Hatband, and attended by all the Nobles, that are not employed as Familiars in the "Procession.

"In the *Terreiro de Paco*, which may be as far from the Inquisition, as *White Hall* is from "*Temple Bar*, there is a Scaffold erected, which may hold two or three thousand People; at the "one End sit the Inquisitors, and at the other End the Prisoners, and in the same Order as "they walked in the Procession, those that are to be burnt being seated on the highest Benches "behind the rest, which may be ten Foot above the Floor of the Scaffold.

in the Order in which they enter the Church; so that those who enter first, and have offended least, are nearest the Altar.

After this comes in the Inquisitor, surrounded with his Colleagues, and places himself on the right Hand Throne, and then the Viceroy, with his Attendants, seats himself on the Throne on the left Hand. The Crucifix is put on the Altar in the Midst of the six Candlesticks. Then the Sermon is preached concerning the Faith and the Office of the Inquisition. This Honour is generally given to the *Dominicans*. The Author of the History of the Inquisition at *Goa* tells us, that in the Act of Faith, in which he walked in Procession, cloathed with the *Sambenito*, the Provincial of the *Augustines* preached the Sermon, which lasted half an Hour, and treated of the Inquisition, which he compared to *Noah*'s Ark; but said it was preferable to *Noah*'s Ark in this, because that the Animals which entered it came out of it after the Flood, with the same brutal Nature they carried in; whereas the Inquisition so far changes the Persons who are detained in it, that tho' they enter cruel as Wolves, and fierce as Lions, they come out of it meek as Lambs.

When the Sermon is ended, two Readers, one after another, mount the same Pulpit, and with a loud Voice publickly read over the Sentences of all the Criminals, and the Punishment to which they are condemned. He whose Sentence is read over is brought by an Officer into the Middle of the Gallery, holding an extinguished Taper in his Hand, and there stands till his Sentence is read thro'; and because all the Criminals are supposed to have incurred the greater Excommunication, when any one's Sentence is read over, he is brought to the Foot of the Altar, where, upon his Knees and his Hands placed on the Missale, he waits till so many are brought there, as there are Missals upon the Altar. Then the Reader for some time defers the reading of the Sentences; and after he hath admonished those who are kneeling at the Altar, that they should recite with him with their Heart and Mouth the Confession of Faith he is to read over to them, he reads it with a loud Voice; and when it is ended they all take their former Places. Then the Reader reads over the Sentences of the rest, and the same Order is observed till all the Sentences are gone thro'.

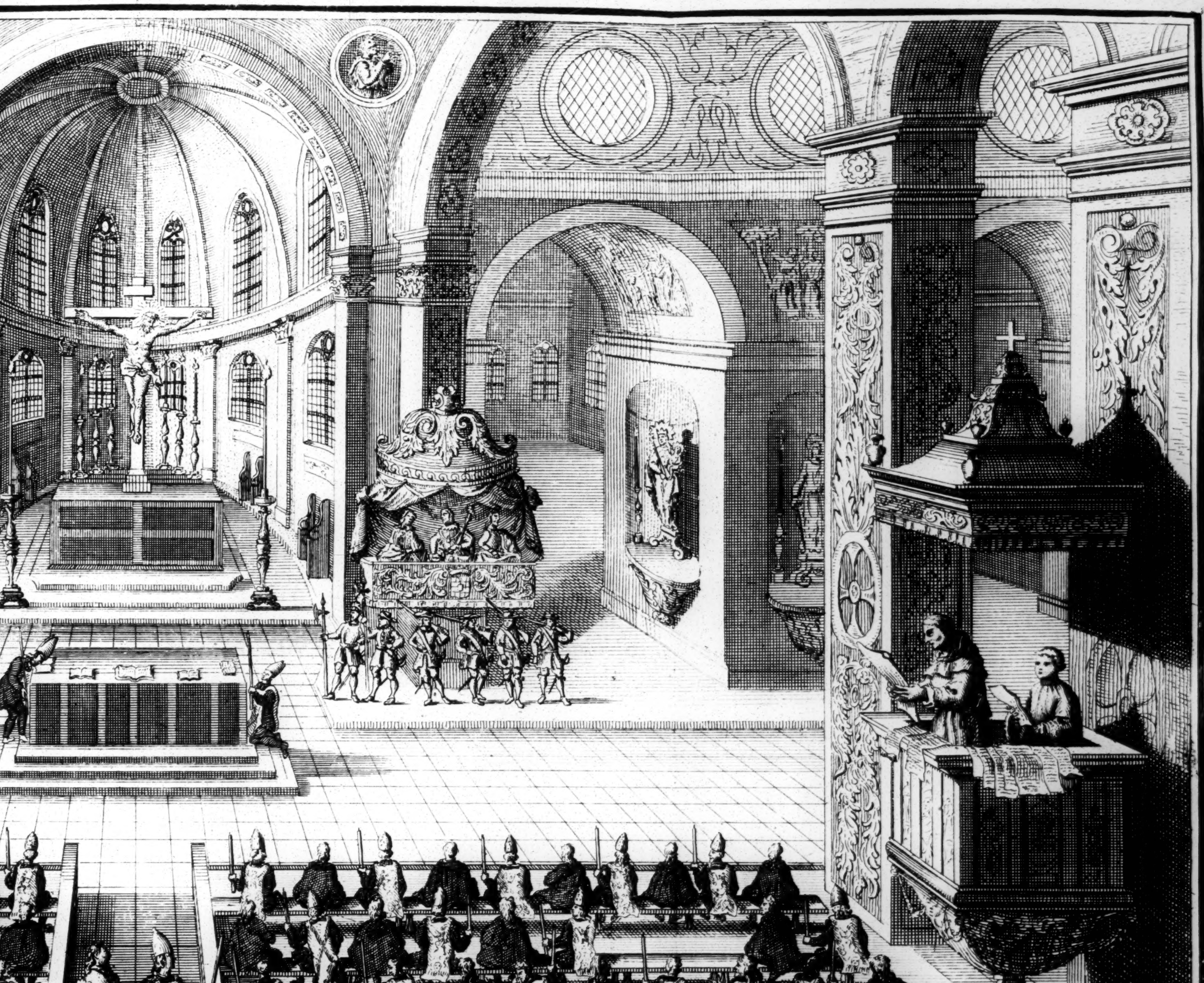
When the Sentences of all those, who are freed from the Punishment of Death by the Mercy of the Office, are read thro', the Inquisitor rises from his Throne, puts on his sacred Vestments, and being attended with about twenty Priests, comes down into the Middle of the Church, and there saying over some solemn Prayers, which may be seen * in the Book of the Sentences
fol. 149. of the *Tholouse* Inquisition, he absolves them all from the Excommunication

* Verse. *Lord, save thy Men Servants, and thine Handmaids.* Verse. *The Lord be with you.*
Resp. *Those, O my God, who trust in thee.* Resp. *And with thy Spirit.*

Let us pray.

Grant, we beseech thee, O Lord, to these thy Men Servants, and thine Handmaids, the worthy Fruit of Penance, that they may be rendred innocent in the Sight of thy holy Church, from the Integrity of which they have strayed thro' Sin, by obtaining the Pardon of their Sins, thro' Christ our Lord. Amen.

The celebration



...ration of an Act of Faith at Goa.

they were under, giving each of them a Blow by the Hands of those Priests who attend him.

Farther, when the Inquisitors absolve and reconcile Penitents at an Act of Faith, they make use of Rods, to admonish them, that by Heresy they have fallen from the Favour of God into his Anger and Fury. Hence *Paramus* advises such Penitents to consider, with how great Indulgence they are treated, because they are only whipped on their Shoulders, that they may go away, and being mindful of the divine Fury, may take heed not to relapse for the future. The Rod also points out the judiciary Power which the Inquisitors exercise over impious Hereticks, and those who are suspected of Heresy, because a Rod is the Measure by which any one's Deserts are measured, and therefore Penitents are whipped with Rods according to the Nature of their Offence, whereby their Faults are weighed and measured. Farther, the Inquisitors use Rods, because, as a Rod at the Beginning is in its Nature flexible, tender and soft, but at last hard, blunt and stiff, so the Inquisitors are soft and tender, whilst Penitents, offending thro' Frailty and Ignorance, reconcile themselves; but if Hereticks do afterwards suffer themselves to be overcome by Wickedness, and fall again into the Crimes they have committed, then they whip them, and strike them severely, even to the burning of the Fire. And finally they use Rods to establish and support the Weak in the Faith, because Rods are a very apt Instrument to support and confirm the Lame and Weak. Paramus, l. 2. t. 3. c. 11.

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During this Action, every one of the Priſoners eats the Bread and Figs in the Church, which were given them by the Officers of the Inquiſition in Jayl.

When this Ceremony is performed, the Inquiſitor goes back to his Place, after which the Sentences of thoſe who are appointed to Death are read over, the Concluſion of which is, that the Inquiſition can ſhew them no Favour upon Account of their being relapſed, or impenitent, and that therefore it delivers them over to the Arm of the ſecular Court, which they earneſtly intreat ſo to moderate their Puniſhment, as to prevent the Effuſion of Blood, and Danger of Death. When thoſe laſt Words are read, one of the Officers of the holy Office gives each of them a Blow on the Breaſt, by which he ſignifies that they are left by the Inquiſition; upon which one of the Officers of ſecular Juſtice comes to them and claims them. If any of them are in holy Orders, they are degraded, and deprived of all their Orders, before they are delivered to the ſecular Arm. After this they read the Sentences againſt the Dead. At laſt theſe miſerable Wretches are brought to the ſecular Judge, to hear the Sentence of Death, and when they come before him, they are ſeverally asked, in what Religion they deſire to die. Their Crime is never inquired into; becauſe 'tis not the Office of the ſecular Magiſtrate, to ask, whether thoſe, who are condemned by the Inquiſition, are criminal. He is to pre-ſuppoſe them guilty, and his Duty is to inflict the Puniſhment appointed by Law upon thoſe who commit ſuch Crimes of which they are pronounced guilty by the Inquiſition. When they have anſwered this one ſingle Queſtion, they are ſoon after tied to a Stake, round about which there is placed a Pile of Wood. Thoſe who anſwer that they will die Catholicks, are firſt ſtrangled; but thoſe who ſay they will die *Jews* or Hereticks, are burnt alive*. As theſe are leading out to Puniſhment, the reſt are carried back

* I cannot avoid here giving my Reader a more particular Account of this Execution from Dr. *Geddes*, who himſelf was once preſent at it. His Words are theſe: " The Priſoners are no " ſooner in the Hands of the Civil Magiſtrate, than they are loaded with Chains, before the " Eyes of the Inquiſitors, and being carried firſt to the ſecular Jayl, are, within an Hour or two, " brought from thence, before the Lord Chief Juſtice, who, without knowing any Thing of " their particular Crimes, or of the Evidence that was againſt them, asks them one by one; *In* " *what Religion they do intend to die?* If they anſwer, That they will die in the Communion of " the Church of *Rome*, they are condemned by him, *To be carried forthwith to the Place of Execu-* " *tion, and there to be firſt ſtrangled, and afterwards burnt to Aſhes*. But if they ſay, *They will die* " *in the Proteſtant*, or in any other Faith that is contrary to the *Roman*, they are then ſentenced " by him, *To be carried forthwith to the Place of Execution, and there to be burnt alive.*

" At

back without any Order, by their Sureties, to the Jayl of the Inquisition. This is the Celebration of an Act of Faith in *Portugal*, or rather in that Part of *India* which is subject to the *Portuguese*, as a *Frenchman* hath described it in his History of the Inquisition at *Goa*, who himself walked in Procession at an Act of Faith, wearing the infamous *Sambenito*, and who accurately observed and described all the Circumstances of it.

The Method of celebrating an Act of Faith in *Spain*, is somewhat different. For whereas at *Goa*, the Banner which they carry before the Procession hath the Picture of *Dominick* wrought in it, *Paramus* says, that in *Spain* the Cross is the Banner of the Inquisition, which is carried before them, and tediously tells us of several Mysteries signified by the Cross, of which I will here give a short Summary.

The Cross is the Beginning and End of all Acts of the Inquisition, and by it is represented that the Tribunal of the Inquisition is a Representation of that supream and final Tribunal, in which the Sign of the Cross shall appear before the Lord Christ, coming to the Judgment of the World with great Majesty and Glory. Farther, it denotes the War which the Inquisition wages against Hereticks, and the Victory which they gain over the Enemies of the Or- Param. *l.* 2. *t.* 3. *c.* 10.

" At the Place of Execution, which at *Lisbon* is the *Ribera*, there are so many Stakes set up, " as there are Prisoners to be burnt, with a good Quantity of dry Fuz about them. *The Stakes* " *of the Professed*, as the Inquisitors call them, may be about four Yards high, and have a small " Board whereon the Prisoner is to be seated, within half a Yard of the Top. The Negative " and Relapsed being first strangled and burnt, the Professed go up a Ladder, betwixt the two " Jesuits, which have attended them all Day, and when they are come even with the foremen- " tioned Board, they turn about to the People, and the Jesuits spend near a quarter of an Hour " in exhorting the *Professed* to be reconciled to the Church of *Rome*; which, if they refuse to " be, the Jesuits come down, and the Executioner ascends, and having turned the *Professed* off " the Ladder upon the Seat, and chained their Bodies close to the Stake, he leaves them, " and the Jesuits go up to them a second time, to renew their Exhortation to them, and at part- " ing tell them, *That they leave them to the Devil, who is standing at their Elbow to receive their* " *Souls, and carry them with him into the Flames of Hell fire, so soon as they are out of their Bodies.* " Upon this a great Shout is raised, and as soon as the Jesuits are off the Ladders, the Cry is, " *Let the Dogs Beards, let the Dogs Beards be made*; which is done by thrusting flaming Furzes, " fastened to a long Pole, against their Faces. And this Inhumanity is commonly continued un- " til their Faces are burnt to a Coal, and is always accompanied with such loud Acclamations of " Joy, as are not to be heard upon any other Occasion; a Bull Feast, or a Farce being dull En- " tertainments, to the using a *professed Heretick* thus inhumanly.

" *The Professed Beards having been thus made*, or trimm'd, as they call it in Jollity, Fire is set " to the Furz, which are at the Bottom of the Stake, and above which the Professed are chained " so high, that the Top of the Flame seldom reaches higher than the Seat they sit on; and if " there happens to be a Wind, to which that Place is much exposed, it seldom reaches so high as " their Knees. So that tho', if there be a Calm, the *Professed* are commonly dead in about half an " Hour after the Furz is set on Fire, yet if the Weather prove windy, they are not after that " dead in an Hour and a half, or two Hours, and so are really roasted, and not burnt to Death. " But tho', out of Hell, there cannot possibly be a more lamentable Spectacle than this, being " joined with the Sufferers (so long as they are able to speak) crying out, *Misericordia por amor* " *de Dios*; *Mercy for the Love of God*, yet it is beheld by People of both Sexes, and all Ages, with " such Transports of Joy and Satisfaction, as are not on any other Occasion to be met with. " *Geddes Tracts*, Vol. I. p. 447, *&c.* Thus far Dr. *Geddes*.

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Orthodox Faith; because the Inquisitors are appointed the Conquerors of heretical Pravity, and Captains for the Defence of Religion, who keep Watch at the Castle of the Inquisition for the Christian Faith, repair it when going to Ruin, restore it when tumbled down, and preserve it when restored in its antient, flourishing and vigorous State.

The Inquisition uses a green Cross, that it may be more conveniently distinguished from those Crosses of other Colours, which are used by the Christian Commonwealth; and especially that it may be shadowed out, that all Things usually signified by Greenness, belong to the Inquisition. For Instance, Greenness denotes Stability and Eternity; it is a grateful, pleasant, and attractive Colour to the Eyes, and finally, is a Sign of Victory and Triumph. Hereby is shadowed forth, that *the Inquisitors of heretical Pravity vigilantly preserve the Stability of the Church, and that Hereticks are attracted by the green Cross, so that they can't escape the Judgment of this Tribunal, and by beholding it are brought to the tender Bosom of Mother Church, and drawn to Repentance and the Sincerity of the Faith.*

The Banner of the Inquisition hath a green Cross in a Field Sable, adorned on the right Hand with a Branch of green Olive, and brandishing on the left a drawn Sword, with this Motto round about the Scutcheon, *Exsurge Domine, & judica causam tuam.* Psal. lxxiii. *Arise, O Lord, and judge thy Cause.* The Branch of green Olive denotes the same as the green Cross. But the Branch

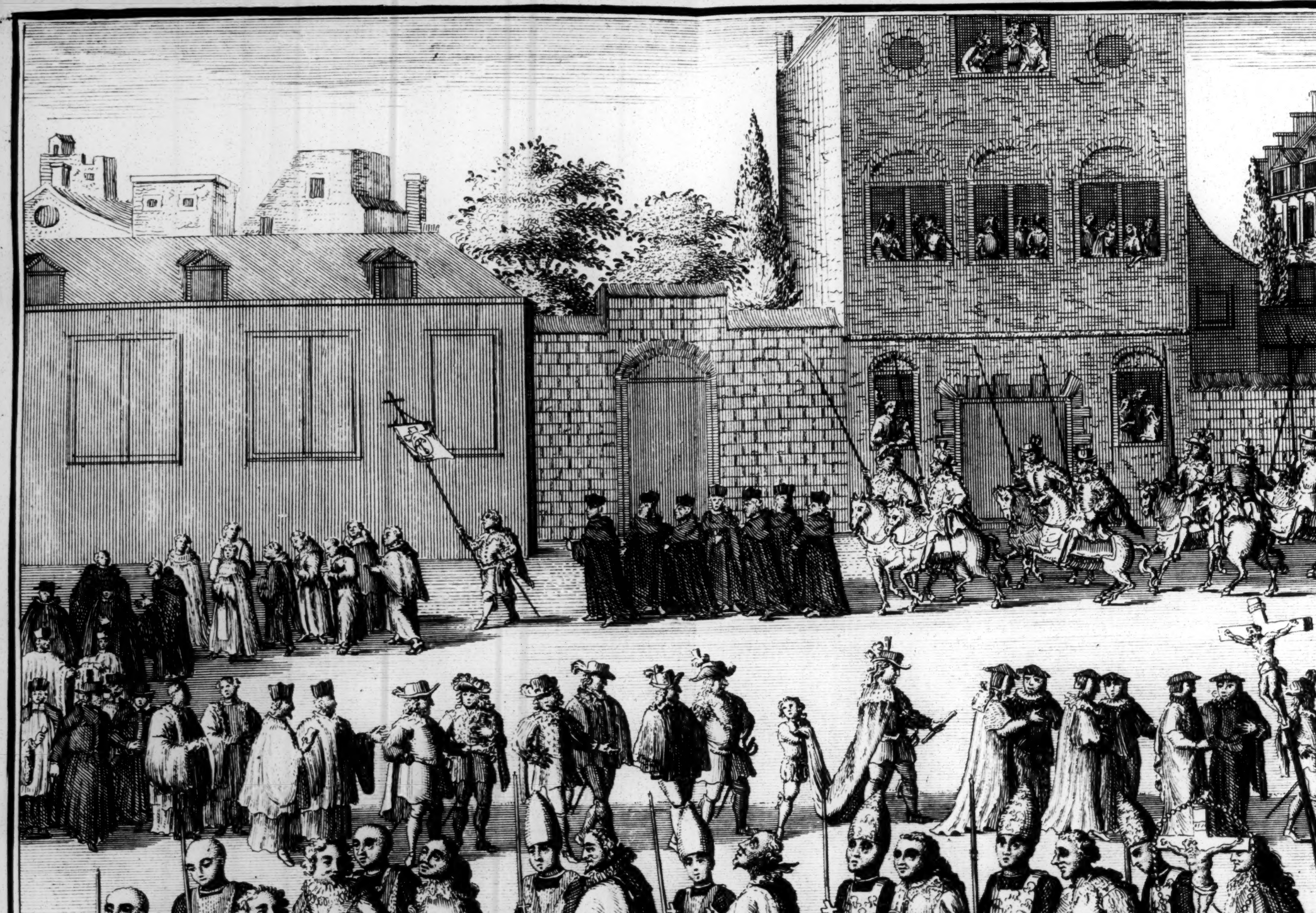
When Mr. *Wilcox*, now the present right Reverend the Lord Bishop of *Glocester*, was Minister to the *English* Factory at *Lisbon*, he sent the following Letter to the then Bishop of *Salisbury*, Dr. *Gilbert Burnet*, dated at *Lisbon*, *Jan.* 15, 1706. N. S. which I publish by his Lordship's Allowance and Approbation, and which abundantly confirms the foregoing Account.

My Lord,

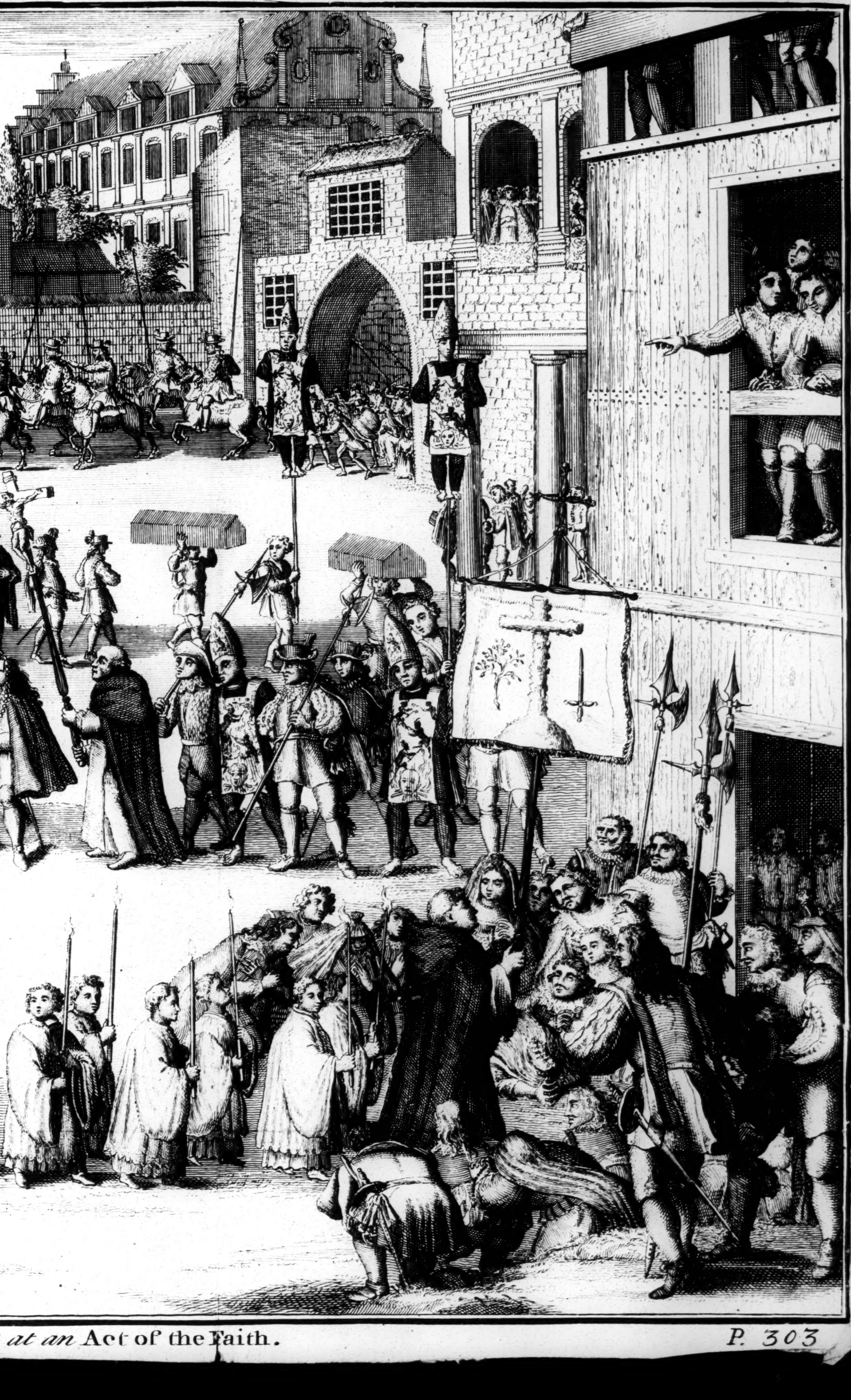
IN Obedience to your Lordship's Commands, of the 10*th ult. I have here sent all that was printed concerning the last* Auto de Fe. *I saw the whole Process, which was agreeable to what is published by* Limborch *and others upon that Subject. Of the five Persons condemned, there were but four burnt;* Antonio Tavanes, *by an unusual Reprieve, being saved after the Procession.* Heytor Dias, *and* Maria Pinteyra, *were burnt alive, and the other two first strangled. The Execution was very cruel. The Woman was alive in the Flames half an Hour, and the Man above an Hour. The present King and his Brothers were seated at a Window so near, as to be addressed to a considerable time in very moving Terms by the Man as he was burning. But tho' the Favour he begged was only a few more Faggots, yet he was not able to obtain it. Those which are burnt alive here, are seated on a Bench twelve Feet high, fastned to a Pole, and above six Feet higher than the Faggots. The Wind being a little fresh, the Man's hinder Parts were perfectly wasted, and as he turned himself, his Ribs opened before he left speaking, the Fire being recruited as it wasted, to keep him just in the same Degree of Heat. But all his Entreaties could not procure him a larger Allowance of Wood to shorten his Misery and dispatch him.* Thus far the Letter.

How diabolical a Religion must that be, which thus divests Men of all the Sentiments of Humanity and Compassion, and hardens them against all the Miseries and Sufferings of their Fellow Creatures. For as Dr. *Geddes* observes, *Ibid. p.* 450. "That the Reader may not think, that this "inhuman Joy is the Effect of a natural Cruelty, that is in these Peoples Disposition, and not of "the Spirit of their Religion, he may rest assured, that all publick Malefactors besides Hereticks, "have their violent Deaths no where more tenderly lamented, than amongst the same People, "and even when there is nothing in the Manner of their Deaths that appears inhuman or cruel.

of



The procession of the Prisoners at a



at an Act of the Faith. P. 303

of Olive is on the right Hand of the Cross, and the Sword on the left, to shew that in the Inquisition Mercy is mixed with Justice; and the Meaning of this c. 4. n. 18. Mixture they derive from the Ark of the Tabernacle, in which, together with the Tables, there was the Rod and the Manna, the Rod of Severity, and the Manna of Sweetness; as tho' the Rod of *Aaron* which blossomed, was the Rod with which Judges command Criminals to be whipped. The Branch of Olive at the right Hand signifies, that nothing ought to be so strictly regarded by the Inquisitors as Mercy and Clemency, which the Olive most wonderfully shadows forth, which hath Branches always green, and which endures Storms much longer than any other Trees, and if buried under Water, is not so soon destroyed, nor doth so easily lose its Verdure. The drawn Sword brandishing on the left, points out, that the Inquisitors, after having tried in vain all Methods of Mercy, do then as it were unwillingly come to the Use and Drawing of the Sword, which was given by God for the Punishment of Offenders. The Field of Sable, in the Midst of which the green Cross is placed, intimates the Repentance of the Criminals, and the Sorrow they conceive on Account of their Sins, which however the Green mitigates with the Hope of Pardon.

The Motto round the Scutcheon, *Exsurge Domine, &c.* marks out, that the Inquisitors, in Expectation of the Coming of the Lord, do in the mean while punish the wicked, that they may deter others, and defend the Good.

But besides these Things, there are other Differences between the Celebration of an Act of Faith in *India* and *Spain*. *Gonsalvius* tells us, this solemn p. 135. Procession began in this Manner at *Seville*. " In the first Place went some " School-Boys, brought out of a certain College in which Boys were taught, " which they commonly call the House of Teaching, who strike an Awe " upon others by their Habit, Singing, and Order, in which they are kept " by certain Clergymen cloathed in Surplices. They walk along singing the " Litanies of the Saints, repeating them alternately, the Chorus alternately " answering, *Ora pro nobis*. After these follow the Prisoners themselves, " commonly called Penitentials, disposed as it were into several Classes in this " Order. Next after the Children walk those who are convicted of lesser " Faults. The Tokens of their Guilt are usually unlighted Candles, Halters about their Necks, wooden Bits, and Paper Mitres. They walk with " their Heads uncovered, that the Mitre may not be concealed, and after " the Manner of Slaves without their Cloak. Those who excel others in " Birth, or Riches, follow after those who are meaner. Next to these march " those who are cloathed with the *Sambenito's*, or military Mantles, marked " across with the red Cross, the same Order being observed as above, according to the Distinction of the Persons. Those who are defiled in holy Orders, as they are superior in Dignity, so also are they in their Place or Rank " in the Procession. After these comes the third and last Class, *viz.* of those who " are appointed for the Fire. Every Prisoner is attended by two armed Familiars for his safe Custody, one on each Side of him, besides which, those who " are to die have two Monks or Theatins, as they call them, walking by them.

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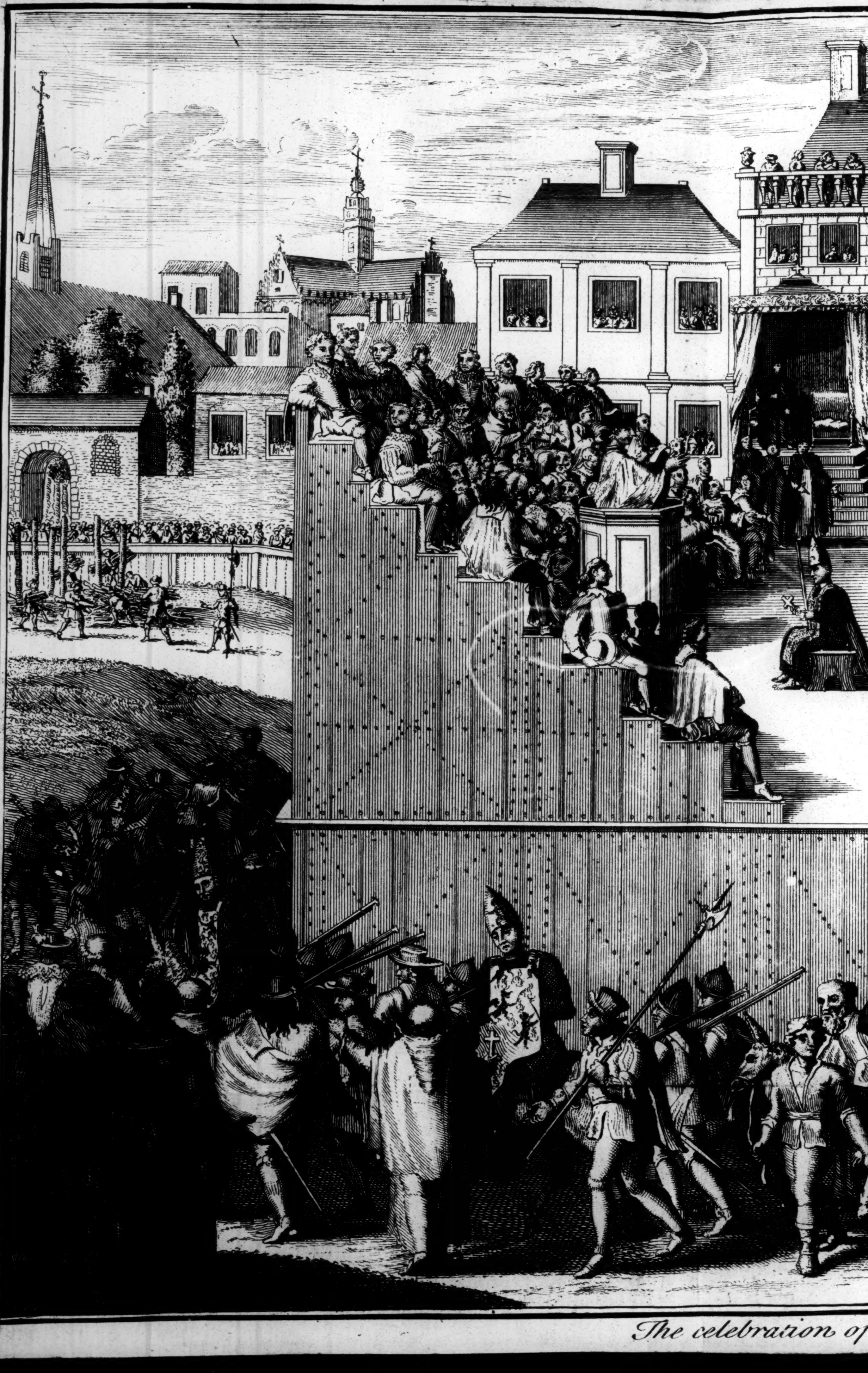
"The whole Council of the City, consisting of the *Alguazils*, Jurors, the "Judges of twenty-four Degrees, the great Officers of the Court, the Re-"gent and Viceroy himself, or his Deputy, who are followed by a great "Number of Nobility on Horseback, immediately follow the Classes of "the Prisoners, who, according to the Custom of a Triumph, ought certainly "to march first. After these comes the Ecclesiastical Order, the Clergy, be-"nificed Persons, and Curates walking first. Next after them walk the "whole Chapter of the principal Church, which they commonly call the "Cabild of the greater Church. Then the Abbots and Priors of the Monks "Orders, with their Attendants. All these walk before the holy Tribunal "to do Honour to it, because, on that Day, it openly triumphs. Between "these and the next after there is a Space left empty, in which the Fiscal of "the Inquisition, who hath had no small Share in gaining that Victory to the "holy Tribunal, walks as Standard-Bearer in truly military Pomp, display-"ing and opening the Standard made of red Damask Silk. This Standard is "most curiously embroidered, having on one Side of it the Arms of that "Pope who granted the Inquisition, with his Name written at large, and on "the other those of King *Ferdinand*, who first brought it into *Spain*. Every "Thing in it is wrought with Silk, Gold, and Purple. Upon the very Point "of this Banner is fastened a silver Crucifix washed over with Gold of great "Value, to which the superstitious Multitude pay a peculiar Veneration, for "this Reason only, because it belongs to the Inquisition. At length come "the Fathers of the Faith themselves, with a slow Pace, and profound "Gravity, truly triumphing, as becomes the principal Generals of that "Victory. After them come all the Familiars of the holy Inquisition "on Horseback. Then an innumerable Company of the common People "and Mob, without any Order or Character. In this Pomp they march "from the Jayl of the Inquisition to the high and magnificent Scaffold, "which is built of Wood, in the noblest and most capacious Street of the "City, for shewing the Penitents to publick View, and for hearing their Sen-"tences. On this Scaffold they make them sit in the same Order as they "marched. There is also another Scaffold almost as large as the former, over "against it, in which is erected the Tribunal of the Lords Inquisitors, where "they sit in their Inquisitorial, and almost divine Majesty, attended with all "that Grandure in which they came."

Memor. Aulæ Hisp. p. 2. pag. 53.

The King, if present, the Queen and the whole Court, and also the Legates, and all the Nobility of *Spain*, generally honour this Solemnity with their Presence. The Seat of the Inquisitor General is like a Tribunal, raised above the Kings. When all are seated in their Places, they begin with celebrating Mass; but when the Priest who officiates, is come to about the Middle of the Service, he leaves the Altar, and goes back to his proper Place. Then the supream Inquisitor comes down from the Scaffold, robed in all his Ornaments, and making his Reverences before the Altar, ascends by several Steps to the King, attended by some of the Officers of the Inquisition, who carry the Crucifix and Gospels, and the Book in which is contained the Oath,



The celebration of

...n of an Act of Faith in Spain. P. 304

Oath, by which the King obliges himself to protect the Catholick Faith, to the Extirpation of Heresies, and the Defence of the Inquisition. The King standing bare-headed, having on one Side of him the Constable of *Castile*, or one of the Grandees of *Spain*, who holds up the Sword of State, swears that he will keep the Oath, which is publickly read over to him, by one of the Members of the Royal Council; and remains in the same Posture, till the supream Inquisitor goes back to his Place. After this one of the Secretaries of the Inquisition goes into a Desk, reads over the like Oath, and takes it from the Council, and the whole Assembly. Then all the several Sentences are read over, and the Solemnity sometimes lasts till nine a Clock in the Evening.

In *Rome* and throughout all *Italy*, as far as I could gather from any Authors, they do not observe such solemn Processions in Acts of Faith, or in the Sermons concerning the Faith. But in what Manner the Sentences are there pronounced, and how they are executed, may, in some measure, be gathered from the two following Accounts.

Bzovius tells us, that in the Year 1498. there were discovered 230 Moors, §. 32. who had abjured the Christian Faith after their Expulsion from *Spain*. After they had wandered about they came to *Rome*, where they were known, informed against, thrown into Jayl, and at length being recovered to the same Faith, were thus admitted into the Church by Pope *Alexander*. On *Sunday*, *July* 29. as *J. Bruchard* writes, who saw it, an high and large Scaffold was built before the Portico of the great Church of St. *Peter*'s at *Rome*, between that and another Portico, which is above the Steps of the Ascent to the said Church. Upon this Scaffold were placed the 230 *Moors* to be reconciled. All these Persons being sat down on the Floor of the Scaffold, in their usual Habit, and the most Reverend Fathers and Lords, the Lord *Peter* Arch-Bishop of *Regio*, Governor of the City, *John* of *Carthagena*, Ambassador of the most serene the King and Queen of *Spain*, *Octavianus*, Bishop of *Marano*, Referendary of our holy Lord the Pope, *Dominicus Jacobatius*, and *James Dragatius*, Auditors of the Causes of the holy Apostolick Palace, Master *Paul* of *Moneglia*, in the Country of *Genoua*, a Predicant, Master of the sacred Palace, and Master *John* of *Malcone*, of the Order of Minors, Doctors of Divinity, Penitentiaries of our aforesaid Lord the Pope, in the said Church, for the *Spanish* Nation, being seated as above in their proper Places, and in their ordinary Habit; a certain Master in Divinity, a Predicant, made a Sermon concerning the Faith in the vulgar *Italian*, and against the said *Moors*, who were all of the *Spanish* Nation, and of whom one was a Professed of the Order of St. *Francis*, whose Habit he publickly wore, whom, and all the aforesaid Persons, he accused of all their Errors, which he knew concerning the Faith, and reproved and instructed. After the Sermon was ended, the *Moors* asked Pardon, and desired Absolution. Then the Master of the holy Palace admonished them in *Latin* faithfully to believe, and to live well, and put them in Mind of the Penance which they had deserved; which Admonition he expounded to them in *Spanish*. After this, as they were on their Knees, this Penance was injoined them; that they should

walk two and two to the Church of St. *Peter*, and there pray, in that Habit which ſhould be injoined them for this Purpoſe; and in the ſame Order ſhould alſo go to the Church of the Convent of St. *Mary ſupra Minervam*, where they ſhould put off their Habit, and every one freely return to his own Place. When they had received this Habit and Penance, the aforeſaid Maſters *Paul* and *John* abſolved them all, who, after Abſolution, went to the two Churches aforeſaid, the Pope ſeeing the whole Ceremony in the new Rooms, and granting them his Bleſſing. The Habit which theſe *Moors* were injoined to wear, was of this Form. Upon their ordinary Garments there was a red or purple Cloath, hanging over their Shoulders upon their Breaſts and Backs, quite down to their Hips, having on it a yellow Croſs four Fingers wide, and of the ſame Length with the Cloath it ſelf. Every one of them went to the Altar of the aforeſaid Church of St. *Mary ad Minervam*, and there laid down the aforeſaid Cloath, which the Friars received, and hung up on high in the Church, to preſerve the Memory of that Affair.

Bzovius, *A.* 1498. §. 32. *fin.*

Peter of *Aranda*, Biſhop of *Calahorra*, Maſter of the Houſe of his Holineſs our Lord the Pope, was kept in Jayl, being defamed for *Mahometaniſm* and Hereſy. *Alexander* the Pope committed the Hearing and legal Determination of his Cauſe, to *Peter*, Arch-Biſhop of *Regio*, Governor of the City, *Peter* of *Venance*, Biſhop of *Ceſena*, Auditor General of the Court of the Cauſes of the Apoſtolick Chamber, and *Egardus Durca*, Biſhop of *Sleſwick*, one of the ſaid Auditors of the Cauſes of the ſacred Apoſtolick Chamber. When they had examined ſeveral Witneſſes on Behalf of the Fiſcal, and 101 on the Behalf of *Aranda*, who all of them depoſed either in part or in whole, againſt the ſaid *Aranda*, after the Proceſs was duly carried on againſt him, at length the ſaid Lords Commiſſaries did, on *Wedneſday*, *Sept.* 14. report the Proceſs and Depoſitions of the Witneſſes to our holy Lord the Pope, in a private Conſiſtory. *Alexander*, when he underſtood the Affair, by the Advice of the moſt Reverend Lords the Cardinals, deprived *Aranda* of the Epiſcopal Dignity, and of all his Benefices and Offices, and depoſed and degraded him from all his Orders; and being thus deprived, depoſed, and degraded, he was at laſt thrown into Jayl in the Caſtle of St. *Angelo*. *Brucardus in diariis hujus anni.*

How the Solemnity of a general Sermon or Act of Faith was formerly obſerved, plainly appears from the Book of the Sentences of the *Tholouſe* Inquiſition. The People being called together into the Church, and after the preaching the Sermon concerning the Faith, the Act commenced by an Oath, which the Inquiſitors gave to the Civil Magiſtrates, by which they promiſed their Aſſiſtance to diſcover and apprehend Hereticks, and to accuſe and denounce them to the Inquiſitors; and finally conclude, *And in theſe and all other Things which belong to the Office of the Inquiſition, we will be obedient to God, and the Church of* Rome, *and the Inquiſitors.* This Oath, as appears by comparing the ſeveral Sermons together, was afterwards ſomewhat enlarged, that the Magiſtrates might not have the leaſt Pretence for conniving at Hereſy.

After this Oath the Sentence of Excommunication was pronounced against such as should hinder the Office of the Inquisition, by which all were put under Excommunication, *Who have knowingly hindered the Office of the Inquisition, or for the future shall hinder it by any Means, directly or indirectly, openly or secretly, either by concealing the Truth themselves, or revoking what they have legally confessed, or by unlawfully persuading others to conceal or revoke it; and also whosoever shall directly or indirectly, openly or privately, knowingly grant Counsel, Assistance or Favour hereto.* Thus runs the first Form of Excommunication in the second Sermon in the Book of Sentences, which was in others differently enlarged, that no Person, ever so slightly suspected, might escape the Hands of the Inquisitors, and that the Magistrate might have no possible way of throwing any Hindrance to the Inquisitors in their holy Office.

After this follows the Act of the Inquisition, and that the Tribunal may appear somewhat merciful and kind, they usually began the Act with pardoning or mitigating the Punishment to some few Persons, condemning at the same time a great many to the same or heavier Punishments. From some they took their Crosses, and injoined them some arbitrary Penance. Others were brought out of Jayl, and had Crosses put on them, which was a lesser Punishment. When these Favours were bestowed, the Sentences were read over, by which Penances were injoined the Criminals.

The first Sentences were those of the Cross-Bearers, who were injoined to wear Crosses on their Breast and Back, and if their Crimes were very heinous, they were condemned to wear two. If it happened that their Faults were slight, they were injoined arbitrary Penance without Crosses. An Instance of which we have, *fol.* 81. Then follow the Sentences of those who were to be immured, who were condemned to perpetual Imprisonment, there to do wholesome Penance with the Bread of Grief, and Water of Affliction. If the Offences of any such were very grievous, they were more closely and straitly confined, and put in Irons.

Then follow the Sentences of the Impenitent and Relapsed, who are delivered over to the secular Court; then the Sentences against the Dead, and against the Houses in which any Persons have committed Heresy, and finally against the Fugitives. When the Sentence is pronounced, the Gospels are placed before the Inquisitors, as tho' nothing was decided without taking Counsel from God. This their usual Form, which generally occurs in the Sentences, plainly shews. *Having God before our Eyes, and the Purity of the orthodox Faith, and having these holy Gospels placed before us, that our Sentence may come from the Face of God, and our Eyes may behold Equity.*

The whole Act being finished, the Inquisitor performed three Things. Eymer.
First, He granted forty Days Indulgencies to all who were present at Church p. 3.
at the aforesaid Acts of Faith. *Secondly*, He proclaimed publickly, that all n. 195.
who had given Counsel, Assistance or Favour, towards any one's abjuring Heresy, and returning to the Unity of the Church, *viz.* all such as inform, bear Witness, advise, read the Crimes, Abjuration and Sentence, and the Officers who keep them in Custody, shall obtain three Years Indulgencies from the Pope. *Thirdly*, He notifies to all, that whosoever knows any Heretick,

retick, or Person defamed or suspected of Heresy, and shall denounce him to the Inquisitors, shall also obtain from the Pope three Years Indulgencies. And this concludes the whole Act, and was formerly the Manner of holding a Sermon of the Faith.

Now let us see how all Things are put in Execution at this time in *Spain* and *Portugal*, after the Act of Faith.

Direct. p. 3. *n.* 164. *com.* 40. Criminals penitent and reconciled, and brought out in publick Procession, are carried back to their former Jayls in the holy Office, the same Day in which the Sentences are pronounced against them, and the Day following are brought to an Audience of the Inquisitors, and are admonished of those Things which are injoined them by their Sentences, and how grievously they will be punished, unless they humbly do the Penances assign'd them. After this, they send every one to the Place to which his Sentence ordered him: Those who are condemned to the Gallies, are sent to the Jayls of the secular Judges. Some are whipped thro' the principal Streets of the City, and sometimes receive two hundred Lashes. Others wear the infamous *Sambenito*, some every Day, others must appear in them only *Sundays* and Holydays. But in these Things every one observes the Custom of his own Inquisition. In the Inquisition at *Goa* this is the Method. Before the Prisoners are dismissed, they are carried from Jayl to some other House, where they are every Day instructed in the Doctrines and Rites of the Church of *Rome*; and when they are dismissed, every one hath a Writing given him, containing the Penances injoined them; to which is added a Command, that every one shall exactly keep secret every Thing he hath seen, said or heard, and all the Transactions relating to him, whether at the Table, or in other Places of the holy Office. And to this Secresy every Prisoner binds himself by a solemn Oath.

The Day after this Solemnity also, the Effigies of those condemned to Death, painted to the Life, are carried to the *Dominicans* Church, and there hung up to be viewed by all. The Custom in this Matter is described by *Ludovicus a Paramo*. *l.* 1. *t.* 2. *c.* 5. *n.* 9, 10, 11. "There is another Monument of Infamy, which, tho' "vulgarly called by the *Spaniards*, *Sambenito*, yet is not a Garment, but a "Cloath affixed to the Walls of the Churches for perpetual Infamy in the "Parishes where they lived. On this Cloath is written the Name and Sur"name of the Criminal, and the Business he carried on is also expressed. "If he discovers any farther, they add another little Piece to the Cloath to "prevent Doubt, describing his Country, and oftentimes also the Parents and "Grandfathers of the condemned Person.

"In some of these Cloaths may be read, who were the Parents of the Crimi"nals, of what Race they were, whether they were married, or if married "Women, whose Wives they were, whether lately recovered to the Chri"stian Religion from the *Jewish* Law and *Mahometan* Sect. Finally, the "Cause of their Penance is declared according to the Nature of their Crime, "*viz.* that he was an Arch-Heretick, a Dogmatist, a declared Heretick, "an heretical Apostate, a feigned Penitent, negative and obstinate, an im"penitent and relapsed Heretick, a *Lutheran*, Anabaptist, *Calvinist*, *Mar*"*tianist* Heretick, even tho' they died before Condemnation. Besides this

" Inscription, there is also painted the Mark which is usually put on living " Penitents, as is above explained. In the antient Cloaths, which have not " yet been repaired, one may see an upright Cross. Besides these already " mentioned, other Things may be seen in them; for in some the Person and " Crime is omitted, and this one Word only written without the Picture, " *Combustus*, *Burnt*. On the Cloaths of such as are reconciled, this Word on-" ly without any Cross or Mark, *Reconciliatus*, *Reconciled*. Sometimes the " Date of the Year is wanting. Sometimes the Flames are painted without " any Inscription, so that the Criminal can't possibly be known. Some " Cloaths are to be seen, from the Ends of which the Threads hang out, in " which probably there is nothing remarkable, and which seem to be made " of the very End of the Piece. The Cause of so great a Variety in these " Cloaths seems to be this, that formerly the Fathers of the holy Inquisition " did not publish Constitutions concerning all these Matters, as they have " now done. For after that the Instructions of the Inquisitors were printed " at *Madrid*, there is extant a peculiar Constitution, in which the Manner of " fixing up, and keeping in Repair these Cloaths of Infamy is prescribed. " 'Tis decreed in this manner, *Cap.* 81. *'Tis known, that the Monuments of " Infamy of condemned Persons, both living, whether present or absent, or " dead, must be hung up on the Walls of the Churches of the Parishes where " they lived; and that whether they are imprisoned, or deceased, or fled. " 'Tis the same as to reconciled Persons, after having performed the Penan-" ces injoined them, and the taking off their Habits, even altho' they were " cloathed in them only for the Procession at the Act of Faith, and whilst " their Sentences were read over.* This is inviolably observed, and no one " hath Power to make any Alteration herein; but 'tis always recommended " to the Inquisitors, that they should take diligent Care to repair these Effi-" gies, especially in the Provinces which they visit, that the Infamy of He-" reticks and their Posterity may never be forgotten. The Time also of " Condemnation must be written on these Cloaths, and it must be particularly " specified, whether they offended as *Jews*, *Saracens*, *Lutherans*, and embra-" ced the Heresies of their Followers and other impious Persons. However, " these Monuments of Infamy and Disgrace are not to be fixed up to render " those infamous, who are reconciled during the Time of Indulgence and " Grace. For as it was agreed with them, that they should not wear such in-" famous Habits, nor be cloathed with them during the Time of their Re-" conciliation, it would be contrary to Reason and Justice to hang them up; " because it would be wholly to destroy the Favour granted them. This " Constitution is observed in all the Kingdoms and Dominions of the King of " *Spain*, except in *Sicily*; where, in the Year 1543. when the Licentiate *Cer-" vera* was Inquisitor there, there was a very great Commotion at *Palermo*, " when the People rose against the holy Inquisition, and tore off the infa-" mous Cloaths from the Walls of the Church dedicated to St. *Dominick*, with " so great a Fury and Rage, that they could never, to this Day, fix them up " again upon the Walls either of that, or any other Church.

CHAP.

CHAP. XLII.

An Enumeration of the ſeveral Inſtances of Injuſtice and Cruelty practiſed in the Tribunal of the INQUISITION.

THUS far we have deſcribed the Method of Proceeding obſerved in the Inquiſition, as far as we could learn it from the Writings of the Papiſts, and even the Inquiſitors themſelves; and if we attentively conſider it, and compare it with the uſual Method of Proceeding in all other Courts, we ſhall find it to be a Series and Connection of Injuſtice and Cruelties, and ſubverſive of all Laws both divine and humane.

The Papiſts uſually recommend to their own People this Tribunal as an holy one, and call the Inquiſition the holy Office. But if we conſider it throughly, we ſhall find 'tis all Diſguiſe, by which they endeavour to palliate and cover over the Villany and Injuſtice of this Court. I will not now undertake to ſhew that the Cauſes which are managed before this Tribunal, are not ſubject to humane Judgment, but belong to the Tribunal of God and his Son Chriſt. For God only, the ſupream Lord of all, who can ſave, and can deſtroy, can preſcribe the Laws of Salvation and Damnation. He only, as Omniſcient and Searcher of Hearts, can pronounce an infallible Judgment of every one's Faith, which lies concealed in his Mind, and which he may diſſemble by Words or Actions, and hath admitted no Man as Partner with himſelf in this Power. From hence it evidently follows, that 'tis a ſacrilegious Violation of the divine Majeſty and Laws, in that the Pope of *Rome* arrogates to himſelf the Judgment of the Faith, preſcribes Laws of Believing to the Faithful, erects the Tribunal of an Inquiſition, ſends every where Inquiſitors as Judges delegated by him, who, in his Name, and by a Power granted by him, are to inquire into the Faith of all, and puniſh thoſe who are not in all Things obedient to the Pope. Nor will I here examine that villanous Doctrine by which they teach, that Hereticks are to be deprived of all Power, ſo that Faith is not to be kept with them, Subjects are not bound by their Oath of Allegiance and Fidelity, that the Husband or Wife, for the Hereſy of either, is freed from the Laws of Matrimony, and even Children from Obedience to their Parents. For 'tis fully evident that this Doctrine ſubverts all Laws divine and humane.

I will only in a few Words repreſent the principal Iniquities and Inſtances of Injuſtice of this Tribunal, in which, as to the Reaſon and Method of Proceeding in Favour of the Faith, it differs from the Laws and Cuſtoms of all other Courts; whereby Things evidently unjuſt in other Tribunals, are in this accounted juſt. I ſhall not indeed mention all, but the Chief only, and moſt remarkable Inſtances, as Specimens of the reſt.

I. The

I. The firſt is, that the Inquiſitors by publiſhing an Edict of the Faith, oblige all under the Penalty of Excommunication, to inform before them of every one, whom they ſuſpect of Hereſy for the ſlighteſt Cauſe; ſo that not only a Relation is bound to accuſe his Relation, a Brother his Brother, and by his Information to bring him into Danger of being burnt, the moſt horrible of all Puniſhments; but even a Wife her Husband, yea, what deſtroys all the Laws of Nature, a Son, according to the Opinion of many Doctors, is bound to inform againſt his Father, if a ſecret Heretick. And tho' ſome think the Son exempted from this Obligation, yet they ſay he is to be commended when he accuſes his Father, becauſe he prefers the Cauſe of the Faith and Church to any carnal Relation. Yea, he is ſometimes tempted by Rewards to give ſuch an Information. For when the Effects of Hereticks are confiſcated, ſo that the Son can't be his Father's Heir, yet he recovers his Father's Effects as the Reward of informing againſt him. What is this better than to ſolicite by Rewards wicked, ſtubborn and rebellious Children, whom their Parents may have corrected for their diſſolute Manners, to accuſe their Parents of feigned Crimes, or at leaſt to become Betrayers of them.

II. A ſecond Inſtance of Injuſtice is, their condemning a Perſon, defamed only for Hereſy, to make canonical Purgation, *i. e.* to purge himſelf with ſeven, more or leſs, Compurgators; ſo that if he fails in one, two or three, he is accounted guilty. For thus the Life and Torture of any one depends on the Will and Pleaſure of another, and 'tis enough to declare him to be an Heretick, if one of the Compurgators dares not ſwear, that he believes to be true, what the defamed Perſon aſſerts upon his Oath. And altho' they confeſs that canonical Purgation is a very deceitful Method, their Injuſtice can't be excuſed, becauſe notwithſtanding this, they uſe it in their Court.

III. A third is, that in this Office, every one, tho' excluded by other Courts, is admitted for a Witneſs, a mortal Enemy only excepted.

IV. To this may be added a fourth, that the Names of the Witneſſes are not ſhewn to the Priſoner, nor is any Circumſtance diſcovered to him by which he can come to the Knowledge of the Witneſſes. Who doth not ſee, that the Defence of the Priſoners is maimed and imperfect, who, tho' accuſed, as they think, of the moſt heinous Crime, hath no Adverſary againſt whom he can defend himſelf, but like blind and groping Perſons, muſt endeavour to find him out, whilſt, in the mean while, they are ordinarily accuſed by, and make their Defence againſt a different Perſon? 'Tis well known, that ſuch is the Wickedneſs of Mankind, that ſome will readily endeavour the Deſtruction of others by falſe Information and Witneſs, if they can conceal themſelves, eſpecially if infamous and perjured Perſons, guilty of almoſt

every Crime, be admitted as Witnesses, and solicited with Promises and Rewards. Besides, who can pretend to form a certain Judgment of mortal Enmity, which lies concealed in the Mind, and of which no Man can therefore be a certain Judge? The Causes of such Enmity are no absolute Discovery of it. One may see some Persons so meek, and so fully possessed with the Fear of God, as that tho' they are injured in the most grievous Manner, they will not harbour Enmity in their Breast; whilst others, tho' injured in a very trifling Manner, yea, giving a wrong Turn to an indifferent Action, shall conceive an irreconcilable Hatred, and cherish a mortal Enmity. Who can here judge of the Mind of either? When the Judge hath considered the Cause of the Enmity, if it doth not appear to him to be sufficient, he will pronounce the Man not to be at mortal Enmity, tho' at the same time his Mind may burn with Anger and Revenge. And thus he becomes a proper Witness, because he is of a worse Disposition than the Judge dares presume him to be; whereby the miserable Wretch, who happens to have such an Enemy, perishes by such an Evidence.

V. A fifth Instance of Injustice is, that if two unexceptionable Witnesses, who yet must ever be liable to Exception, because unknown to the Criminal, testify of different Facts, yea, sometimes if there be one only, yea, if but a mere Report, they think it enough to order to the Torture. Hereby there is an End at once of the most innocent Person in the World, and the Inquisitor hath it in his Power by this Means to make any one guilty by his own proper Confession. For how easily doth it happen, and there are Instances enough of this in the Court of the Inquisition, for a wicked Wretch, or an Enemy to charge an innocent Person with the Crime of Heresy, when he is certain that he is not obliged to prove his Information, and that his Name shall not be discovered. In the mean while the Person informed against is condemned to the Torture, and without End and Measure tormented with the most cruel Torments, till he makes a Confession of a Crime that he hath never committed; which is so evident, that Friar *Bernard Deliciosi* formerly said, as appears in his Sentence, *That even St.* Peter *and St.* Paul *could not defend themselves from Heresy, if they were now alive, if Inquisition was made against them according to the Manner used by the Inquisitors.*

VI. The sixth is, that two unexceptionable Witnesses who agree, are sufficient for the Conviction and Condemnation of any Person. 'Tis well known that many Things might be objected against the Credit of the Witnesses, if they were known, by which the Weight of their Evidence might be lessened; and that they might be oftentimes convicted of Falshood by several Circumstances, by the Testimony of others present, and by other Means. But who can defend himself against Persons he doth not know? All that he can do is to guess and conjecture who the Accusers and Witnesses are. If he mistakes in this, all his Defence is in vain. If the Prisoner should happen to guess right, yet the Witnesses are never discovered to him, and he must make his Defence

Defence against them upon a bare Suspicion. In the mean while the Inquisitor is to judge, whether the Prisoner weakens or destroys the Credit of the Witness. If he cannot destroy the Evidence, altho' he be the most innocent Person, altho' he protests that he is a Catholick, and will die in the Faith of the Church of *Rome*, yet he can't escape being condemned as a convicted Heretick, and being delivered over to the secular Power to be burnt for Contumacy and Impenitency. Nor must he, unless he will commit a mortal Sin, redeem his Life by a false Confession of a Crime he hath not committed. So that in this Case the miserable Wretch, falsly accused, which they themselves allow doth sometimes happen, is condemned as an Heretick by the Laws of the Inquisition, delivered over to the secular Court to be burnt, and yet is at the same time a true Catholick, and, as they themselves say, shall obtain for this Wrong the Crown of Martyrdom. So that an innocent and just Person is condemned by the Laws of the Inquisition, and he whom the Inquisitors sentence to Death, is a Person acceptable to God, and to be honoured with a Crown of Martyrdom. 'Tis a Scandal that any Tribunal should be erected, against which so foul an Objection lies; or that the Church, after Satisfaction is made to God, and the internal Court of the Church by Repentance, should erect another external Court, where Satisfaction must be made by the Punishment of the Penitent.

VII. A seventh Instance is, that they would have Persons informed against become their own Accusers. For as soon as ever any one is thrown into Jayl, he is bound by an Oath to declare the Truth. Then he is asked the Reason of his Imprisonment, that he may accuse himself, if he hath happened to do any thing that will render him guilty in the Court of the Inquisition. Whereas the Method of all Courts requires that the Accusation be shewn to the Criminal, and he himself be examined concerning the Fact he is accused of. But in the Inquisition every Prisoner is left to guess at the Crime he is accused of. There are oftentimes Things spoken innocently and inadvertently, sometimes Words are turned into a quite different Sense, sometimes the Crime it self is evidently forged; and, in the mean while, if he can't accuse himself, he miserably pines away sometimes for Years together in an execrable Jayl, that his Constancy may be broken by the Tediousness of his Imprisonment. If he can't guess at the Crime, and waits till 'tis objected against him by the Promotor Fiscal, he is looked on as guilty of Contumacy, stubborn, and perjured, and if then by Chance he remembers the Crime, and owns it, he is more grievously punished, because he would not voluntarily confess it. But if he doth not acknowledge it, he is tortured, tho' it be not fully proved; but if it be fully proved, he is condemned, according to the Laws of the Inquisition, as a negative Convict. So that however he behave, he can't possibly escape the cruel Hands of the Inquisitors.

VIII. An eighth Instance is, that the Inquisitors use various Arts to draw out a Confession from the Prisoners, by making them deceitful Promises,

which, when they have got the Confession, they don't believe themselves obliged to fulfil; and to get them by artful and evasive Interrogatories to declare, that the Informers and Witnesses are not their mortal Enemies; that so the Prisoner being destitute of all human Assistance and Comfort, and seeing no End to his Miseries, may, thro' the Art and Fraud of the Inquisitor, have no possible way left to defend himself. And yet in the mean while these Wretches affect the Appearance of Justice, and grant the Criminals an Advocate and Procurator to manage their Cause. But in this the Prisoner is miserably deceived.

IX. And this is a ninth Specimen of their Injustice, because the Advocate granted to him is given him only to betray him. For he may not choose such an Advocate as he himself approves of, nor is it lawful for the Advocate to defend the Prisoner, unless he would be accounted as a Favourer of Heresy; but the Inquisition it self assigns him his Advocate, bound to them by an Oath, whose principal Business is to persuade the Criminal to confess the Crime he is accused of, not to use any Methods of Defence not practised in the Court of the Inquisition, and immediately to quit his Defence, if he can't defend him according to the Laws of the Inquisition. Besides, the Defences they use are mere Trifles and Impostures, by which they miserably deceive the Prisoners, so that tho' they seem to be endeavouring to do a great deal, they in Reality do nothing at all; but only observe a few Forms, that the Process in the mean while may be prepared and finished, according to the Custom observed in the Inquisition.

X. A tenth is, that when the Crimes cannot be proved against the Prisoner, he is not absolved from the Crime of which he is accused, but only from Prosecution; and all the Declaration that is made is, that the Crime against him is not proved by proper Witnesses; and this Sentence is never taken for an adjudged Case. So that he who is once informed against to the Inquisition, altho' he be innocent, and his Crime can't be proved according to the received Manner of the Inquisition, tho' indeed, according to that Manner, all Crimes, of which there is but the least Suspicion, may be easily proved; yet he is never blotted out of the Inquisitors Book or Index, but his Name is there preserved in perpetual Remembrance of his being a suspected Person, that if he should happen to be informed against for Heresy at any other time, these latter Informations added to the former may amount to a real Proof, and that altho' he is dismissed from Jayl by the Sentence of the Judge, he may never be able to live in Safety, but that being always suspected by the Inquisitor, he may be arrested for the same Crime which ought to have been forgotten, upon the fresh Information of some vile and wicked Fellow.

XI. An eleventh, and that not the least Instance of Injustice, is, their Readiness to put Persons to the Torture, and that to discover a secret Crime, lying concealed in the Mind; yea, that they will use the Torture so much the sooner, because the Crime is more concealed than other Crimes. 'Tis

well

well known to all, that Torture is a very deceitful Method of discovering the Truth, because those who confess the Truth, and who declare Falshoods, have the very same End to their Pain. And therefore Lawyers will never have the Torture made use of, unless when the Crime is sufficiently proved, and there wants nothing but the Criminal's own Confession. But as to secret Crimes, to be ready to inflict the Torture is the highest Injustice, and necessarily subjects many innocent Persons to the most grievous Punishment; whilst being unable to resist the Cruelty of their Torments, they had rather make themselves guilty, by a false Confession of a Crime they never so much as thought of, to put an immediate End to their most cruel Punishment, than to endure any longer those most dreadful Torments, of which they can see no manner of End.

XII. The twelfth is, their putting Persons to the Torture upon half full Proof of the Crime. This half full Proof is Faultering, Defamation, and one Witness of his own Knowledge, or when the Tokens are vehement and violent. All these Things are subject to the Pleasure of the Judge. So that if any one falls into the Hands of a cruel Inquisitor, and faulters in his Answer, or is informed against by one Witness, who declares he was present at the Action or Words he gives Information of, he can't possibly escape the Torture, nor consequently the Punishment of the Crime he is accused of, considering the Violence of the Torments. Nor is this all, but as there may be some Facts occasioned not so much by Heresy concealed in the Mind, as by carnal Concupiscence or Rashness, they will have such to be tortured for their Intention, and force them by Torments to confess they had an heretical Intention in their Mind.

XIII. A thirteenth is, that when they prepare themselves for the Torture, they gravely and seriously admonish the Criminal, to speak nothing but the Truth, and to confess nothing that is not agreeable to Truth to avoid the Tortures. By this Means they put on the Appearance of Sincerity, as tho' they sought nothing but the naked Truth, that when the Torture is finished they may be very secure that the tortured Person hath confessed a real Crime; because they have seriously and gravely admonished him to say nothing contrary to Truth. In the mean while they suppose, that the Crime objected against him is real, and endeavour to force from him a Confession by Torture, and threaten to double his Torments unless he confesses; so that if he denies the Crime, his Torments are aggravated; if he confesses it his Torments are soon ended. Hence it appears, that their Design is not honestly to find out the Truth by Torture, but that they suppose the Crime is real, altho' according to the Laws of the Inquisition it be only half proved, and then extort a Confession of it.

XIV. A fourteenth is, that whereas in other Courts the Number is certainly fixed how often the Torture may be repeated, they have invented a Method

of torturing Persons very often, without offending against the Law, which provides that the Tortures shall not be repeated above twice or thrice. If, for Instance, they make use of the lesser Tortures, and the Prisoner confesses nothing, they afterwards make use of more grievous ones, then proceed to such as are more cruel, till at different Intervals of Time they have gone thro' all the several Kinds of Tortures. And this they don't call a Repetition, but only a Continuation of the Torture; so that if any one hath been several times tortured, but with a different kind of Torture each time, and hath thus at certain Distances gone thro' all the Kinds of Torture, according to the Opinion of these merciful Casuists, he ought to be accounted as tortured only once.

XV. A fifteenth is, that when they deliver condemned Persons to the secular Arm, they intercede for them, that their Punishment may be so moderated, as to prevent shedding of Blood, or Danger of Death. And in the mean while, if the Magistrate is not ready to burn the Hereticks, or delays the Punishment, they oblige him, under Penalty of Excommunication, to execute the Sentence. The superstitious Wretches are afraid they should become irregular, by delivering a Criminal to the secular Magistrate without Intercession, and yet are not afraid of becoming irregular, by compelling the Magistrate under Penalty of Excommunication, to murther those whom they have condemned. Can any thing be more evident, than that this is nothing more than acting a Part, and an Affectation to be thought by the People to have no Hand in the Murther of which they are really the Authors?

XVI. The last Instance I shall mention appears in their ridiculous Process against the Dead, whose Relations and Heirs they cite, to appear on such a Day to defend, if they can and will, the Memory of the Dead. Whereas they themselves have made it a Law, that if any one appears in Defence of an Heretick, he shall be accounted as a Favourer of Hereticks himself, and condemned as such, and have no Advocate or Procurator to defend himself. So that they cite all Persons to defend the Memory of the Dead, and yet deter all Persons from such Defence by a most grievous Punishment, appointed against the Favourers of Hereticks. So that all this is, like their Intercession for Criminals, mere Imposture and Sham. Then they provide an Advocate to manage the Cause, bound to them under an Oath, and he publickly declares he can't defend the Memory of the Deceased. So that as no one undertakes his Defence, the Accusations against him are reckoned just, the Proofs legal, and the Deceased is condemned for Heresy. But what greater Instance of Injustice can there be, than to condemn a Person as convicted, whose Defence no one dares undertake, without running the Hazard of his Fortune and Life.

If any one considers these Things, which I have mentioned as Specimens only, he will find no Sanctity in the Court of the Inquisition; but must acknowledge, that in the whole Method of Proceeding there is nothing but Injustice,

Fraud,

Fraud, Impostures, and the most accursed Hypocrisy, by which the Inquisitors, under the feigned Pretence of Sanctity, endeavour to disguise the Villany of their Proceedings, that so they may maintain their Dominion over the miserable common People, and keep them all in Subjection to themselves. And tho' they do every Thing that is wicked and vile, yet they would have all adore them for the venerable Character of Sanctity.

'Tis needless to mention here more Instances of their Cruelty. I shall say all in a few Words. The Miseries of the Jayl, in which the Prisoners are generally confined by themselves for several Years, shut up in Darkness, without being allowed any human Converse, are so great; the Cruelty of their Torments so severe, and their Punishments so exquisite, that they greatly exceed the Cruelty of all other Courts. For Persons are not only burnt alive, but their Mouths gagged, so that they have not the Liberty to groan or cry out in those most horrible Tortures; and by thus stopping up their Mouths, they are in such an Agony as that they are almost strangled. But their Cruelty towards the Penitent and converted is most detestable. For whereas the Church ought, with open Arms, to embrace Penitents, in Imitation of the Shepherd who carried the lost Sheep on his Shoulders, and brought it home to the Sheepfold, these Wretches injoin the most grievous Punishments on those whose Lives they spare, which with them are only wholesome Penances. For they condemn them either to wear the infamous *Sambenito*, or to Imprisonment, or the Gallies, whereby their very Life is oftentimes a Punishment to them; whilst others are denied the very Hopes of Life, especially the Relapsed, tho' they convert themselves, who are condemned to Death without Mercy. And yet the Sacraments are given to those who are reconciled to the Church when they desire it, and thus before they are put to Death they become Members of the Church, put in a State of Salvation, and by the Priests themselves most certainly assured of an heavenly Crown. Can there be any greater Cruelty, and more abhorrent from the Spirit of Christianity, than to punish with Death an erroneous Person who repents, detests his Error, and is now reconciled to the Church? But the Ecclesiastical Sanctions must be satisfied, and the Authority of the Church preserved intire, tho' the Laws of Jesus Christ and the Commands of the Gospel are trampled under Foot.

All these Iniquities are committed according to the very Laws of the Inquisition. Many Things are indeed in the Execution of this Office, left to the Pleasure of the Inquisitors, which Power they often villanously abuse, as appears from their daily Practice, and innumerable Instances; for it was the common Complaint of all Nations against the Inquisition, what *Thuanus* tells us was the Complaint of the *Neapolitans*. *That the perverse and preposterous* *Hist. Lib. 3.* *Form of Trials increased the Horror, because it was contrary to natural Equity, and to every legal Method in carrying on that Jurisdiction. Add to this the Inhumanity of their Tortures, by which they violently extorted from the miserable and innocent Criminals, that they might deliver themselves from their Torments, whatsoever the delegated Judges would have them confess, tho' generally contrary to Truth. And for this Reason 'twas justly said, that it was invented not for the sake of defending Religion,*

ligion, which the primitive Church had provided for by a quite different Method, but that by this Means they might strip all Men of their Fortunes, and bring innocent Persons into Danger of being destroyed. And that this was not said without Cause, the *Netherlands* alone, not to seek for Instances elsewhere, are the most evident Demonstration.

Tom. 9. p 860, 861. Advers Monach. Hisp. *Erasmus* gives us this Account of the Inquisition in his Time. *The Affair is carried on by Informers, deputed Persons, and Monks for Judges, without Honesty or legal Form of Law. The three former pass Sentence in Jayl, two Monks are Witnesses, and then the Stake is prepared.* And afterwards: *But now sometimes the Monks spread a false Report, then they carry the poor Wretch, as a suspected Person, to Jayl, there they dispute after their Manner, the Articles are taken down, and the Fagots immediately got ready.* The same Writer intimates, p. 858. *There is a great deal of Difference between an holy, and a false ensnaring Inquisition. A Father inquires into the Life of his Son, that he may take Care of it. A Physician inquires into the Distemper of his Friend to cure him. So he who loves the House of God inquires into the evil Errors that are in it, to heal them if he can; or if he cannot, to cut off the incurable Member when all Methods have been tried in vain, to prevent the Evil from spreading wider. Again, another inquires in a very different Manner only that he may betray. A Robber inquires that he may seize his Prey. A scurrilous Person inquires that he may have an Opportunity of throwing Scandal. An Enemy inquires, in order to destroy. A Tyrant inquires, that he may overthrow the publick Liberty. The Devil also inquires, going about as a roaring Lion, seeking whom he may devour. Such a kind of Inquisition every Christian Inquisitor ought to detest.* All who understand *Erasmus*'s Stile and Method of Writing, know, that 'tis his Design to insinuate by this Caution, that the Inquisition is truly such as he hath described it, and which therefore ought to be abhorred by every Christian Inquisitor.

The Papists indeed glory, that the Inquisition is the most certain Remedy
l. 2. t. 3. c. 4, 5. to exstirpate Heresies. Especially *Ludovicus a Paramo* takes a great deal of Pains to shew, that Heresies have in several Places been extinguished by Help of the Inquisition, and at last concludes in these Words. *These are some of the fairest Fruits, which the most fertile Field of the holy Office hath produced to the Church in all Kingdoms where it hath not been obstructed. But amongst all Provinces and Countries the Kingdoms of* Spain *do every Day receive the noblest Fruits. For as in these Countries the holy Office of the Inquisition is maintained with greater Severity, and is in greater Honour and Esteem with the Nobles and Princes, so it flourishes in greater Authority and Power, whereby the Judges of the Faith carry on more diligent Inquisition against Heresies, and more effectually pull them up by the very Roots.* And because the Inquisition is so effectual a Method to exstirpate Heresies, he gathers from thence that it was ordained for this Purpose, by the most wise Providence of God. But what is really unjust in it self, and carried on by unjust Methods, cannot have God for its Author, nor is Success any Argument that the Inquisition is from God. The first Inquiry is, whether it be suitable to the Nature of the Christian Doctrine. If it be not, 'tis then unjust and Anti-christian. Many Things are unrighteously undertaken by

by Men, and accomplished by Violence and Cruelty, by which Innocence is oppressed, which altho' God in his just and wise Counsel permits, he is far from approving. Even in *Japan*, a cruel Persecution hath extinguished the Christian Religion, as preached by the *Roman* Priests; so that the *Roman* Catholick Religion is equally extinguished there by the Violence of Persecutions, as those Doctrines are in *Spain*, which are contrary to the Church of *Rome*, and which they render odious by the infamous Name of Heresy. And yet they will not allow that any just Argument can be drawn from hence to prove, that that Persecution was given by divine Providence, as a most effectual Remedy for the Exstirpation of their Religion. If other Parties of Christians would use the same Diligence and Cruelty of Inquisition against them, I may venture to affirm, that they themselves could not withstand it, but that within a few Years the Popish Religion would be extinguished in all Protestant Countries, and scarce a single Person left who would dare to profess it. But God forbid, that the Christian Religion should ever be propagated this way, which doth not consist in a feigned and hypocritical Profession, but in a sincere and undissembled Faith. And therefore as no one ought to assume to himself the Power of Judging concerning it, but God the Searcher of Hearts, to him only let us leave it to pass the true Judgment concerning every Man's Belief. Let us in the mean while detest the Tyranny of the Papists, and strive to reduce those who, in our Judgment, hold Errors, into the way of Truth, by the good Offices of Charity and Benevolence, without arrogating to our selves a Judgment over the Consciences of others. And out of a serious Regard to the last great Day of Judgment, let us approve our Consciences to God, and every one of us expecting from his Mercy an equitable and righteous Judgment, pray without ceasing, ARISE, O LORD, AND JUDGE THY CAUSE.

FINIS.